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F. N. J., F. D. C. 5401–5600 Issued January 1945

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

5401–5600

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

WATSON B. MILLER, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., *September 14, 1944.*

CONTENTS

	Page		Page
Beverage and beverage materials	277	Fish and shellfish	306
Cereal and cereal products	282	Fruits and vegetables	310
Alimentary pastes	282	Canned fruit	310
Bakery products	283	Dried fruit	311
Corn meal	286	Fresh fruit	312
Flour	286	Frozen fruit	312
Miscellaneous cereal products	288	Miscellaneous fruit products	313
Chocolate, sugars, and related products	290	Vegetables and vegetable products	314
Candy	290	Tomatoes and tomato products	318
Miscellaneous saccharine products	293	Meat and meat products	321
Dairy products	294	Nuts and nut products	321
Butter	294	Oils and fats	325
Cheese	300	Spices	328
Miscellaneous dairy products	302	Miscellaneous food products	330
Eggs	303	Gift packages of food	335
Feed	306	Food for special dietary uses	338

BEVERAGES AND BEVERAGE MATERIALS

5401. Adulteration of green coffee beans. U. S. v. 91 Bags of Green Coffee Beans. Product ordered released under bond for sorting out and eliminating the unfit portion. (F. D. C. No. 9994. Sample No. 16021–F.)

On May 20, 1943, the United States attorney for the District of Utah filed a libel against 91 bags of green coffee beans at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce on or about November 16, 1942, by the Dupuy Storage and Forwarding Company from New Orleans, La.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, beetles and beetle fragments.

On June 1, 1943, the Cook Tea and Coffee Co. of Salt Lake City, Utah, having appeared as claimant, an order was issued releasing the article under bond for sorting out and eliminating the unfit portion under the supervision of the Food and Drug Administration.

5402. Adulteration and misbranding of cola sirup. U. S. v. 4 Barrels of Cola Syrup. Decree of condemnation and destruction. (F. D. C. Nos. 10533, 10644. Sample Nos. 57611–F, 57613–F.)

Examination shows that this product contained saccharin, a non-nutritive substance, and that a portion was fermenting.

On September 4, 1943, the United States attorney for the District of New Mexico filed a libel against 2 barrels of cola sirup at Hobbs, N. Mex., and 2 barrels of cola sirup at Lovington, N. Mex., alleging that the article had been

shipped in interstate commerce on or about June 20 and 21, 1943, by the Liberty Cola Distributing Co., Amarillo, Tex.; and charging that it was adulterated and misbranded. The article was labeled in part: "Rice's Fountain Cola Syrup * * * Rice Beverage Company Dallas, Texas."

The article was alleged to be adulterated in that a valuable constituent, sugar, had been in whole or in part omitted therefrom; in that saccharin had been substituted for material amounts of sugar; and in that saccharin, having no food value, had been added thereto or mixed or packed therewith so as to reduce its quality or strength. The lot at Hobbs, N. Mex., was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

The article was alleged to be misbranded in that the statement appearing in the labeling, "Contains: Water, Sugar, Caramel Color, Glycerin, Caffeine, Phosphoric Acid, Extract Kola Nuts and Flavoring. Trace of Sodium Benzoate," was false and misleading as applied to an article containing saccharin, a non-nutritive substance.

On October 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5403. Adulteration and misbranding of Lem-O-Juice. U. S. v. 17 Cartons of Lem-O-Juice. Default decree of condemnation and destruction. (F. D. C. No. 10103. Sample No. 30790–F.)

On June 24, 1943, the United States attorney for the Western District of Washington filed a libel against 17 cartons, each containing 12 tins, of Lem-O-Juice at Seattle, Wash., alleging that the article had been shipped from New York, N. Y., on or about May 6, 1943, by the I. Kalfus Co., Inc.; and charging that it was adulterated and misbranded. The article was labeled in part: (Tins) "Lem-O-Juice Powdered Whole Lemon Flavor Contains: Cerelose, Tartaric Acid and Concentrated Lemon Oil from California Lemons, Starch."

The article was alleged to be adulterated in that a mixture of corn sugar, tartaric acid, terpeneless lemon oil, cornstarch, and artificial color, containing little or no powdered lemon juice, had been substituted in whole or in part for powdered lemon juice, which the article purported and was represented to be by reason of the name "Lem-O-Juice," taken in conjunction with the statements "Powdered Whole Lemon Flavor" and "Powdered Lemon Juice," (side panel), "To produce a liquid equivalent to Lemon Juice."

The article was alleged to be misbranded (1) in that the statements quoted in the preceding paragraph, and appearing on the label, were false and misleading as applied to a mixture of corn sugar, tartaric acid, terpeneless lemon oil, cornstarch, and artificial color, containing little or no powdered lemon juice; (2) in that the statement, "Chemical titration shows an approximate vitamin C content of 0.9 mg. or 1 international units vitamin C per gram," was false and misleading since 0.9 milligrams vitamin C does not equal 1 International Unit of vitamin C; and, (3) in that it contained artificial coloring and failed to bear labeling stating that fact.

On November 8, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5404. Adulteration and misbranding of orange drink. U. S. v. 24 Cases of "Flavorich Orange Drink" (and 4 additional seizure actions against Flavorich Orange Drink). Default decree of condemnation. Portions of product ordered destroyed and remainder ordered delivered to welfare organizations. (F. D. C. Nos. 10172, 10173, 10188, 10201. Sample Nos. 9619–F, 41062–F, 41063–F, 41244–F.)

On July 2, 3, 6 and 12, 1943, the United States attorneys for the Eastern District of Louisiana and the Southern District of Alabama filed libels against the following lots of Flavorich Orange Drink: 24 cases and 23 bottles at New Orleans, La., and 419 cases at Mobile, Ala.; alleging that the article had been shipped in interstate commerce within the period from on or about April 30 to June 4, 1943, by the Flavorich Juice Co., from Memphis, Tenn.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated (1) in that a valuable constituent sugar, had been in whole or in part omitted therefrom; (2) in that saccharin had been substituted for material amounts of sugar; and (3) in that a substance, saccharin, having no food value, had been added to it or mixed or packed with it so as to reduce its quality or strength.

It was alleged to be misbranded in that the statements, "Contains Orange Juice, Water, Cane Sugar, Corn Syrup. Acidified with Lemon Juice, U. S. Certified Color and Less Than One Twentieth of 1% Sodium Benzoate," borne

on the label, was false and misleading as applied to an article containing saccharin, a non-nutritive substance.

On August 14 and October 25, 1943, no claimant having appeared, judgments of condemnation were entered. The lots located at New Orleans, La., were ordered destroyed, and those located at Mobile, Ala., were ordered delivered to welfare organizations.

5405. Adulteration and misbranding of orangeade concentrate. U. S. v. 2 Cases of Orangeade Concentrate. Default decree of condemnation. Product ordered destroyed or delivered to a charitable institution. (F. D. C. No. 10417. Sample No. 31189-F.)

On August 28, 1943, the United States attorney for the District of Oregon filed a libel against 2 cases, each containing 12 bottles, of orangeade concentrate, at Portland, Oreg., alleging that the article had been shipped on or about June 18, 1943, by the Pixie Flavor Base Co. from Los Angeles, Calif.; and charging that it was adulterated and misbranded. The article was labeled in part: (Bottle) "Pixie Natural Orangeade Concentrate * * * Directions: Mix 1 quart Concentrate with * * * to make 1 gallon of Orangeade Syrup."

The article was alleged to be adulterated in that an artificially colored mixture consisting essentially of water, acid, and orange pomace flavored with orange oil and orange juice, had been substituted for "Natural Orangeade Concentrate," which should contain only orange juice or concentrated orange juice; in that inferiority had been concealed by the addition of artificial color; and in that artificial color had been added thereto, or mixed or packed therewith, so as to make the product appear better or of greater value than it was.

It was alleged to be misbranded in that the name "Natural Orangeade Concentrate," coupled with the design of an orange and the statements under "Directions," were false and misleading since they implied that the product would make orangeade when diluted according to the directions, whereas it would not make orangeade; in that it was an imitation of another article of food, orangeade base, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated; and in that it was fabricated from two or more ingredients and the label failed to bear the common or usual name of each such ingredient, since the presence of water and orange pomace were not declared.

On October 5, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to some charitable institution.

5406. Adulteration and misbranding of green cero tea. U. S. v. 6 Cartons and 250 Packages of Green Cero Tea. Default decree of condemnation and destruction. (F. D. C. No. 10005. Sample No. 42505-F.)

This product consisted of dried grass resembling ordinary lawn grass. The brew had a grass-like odor and taste. It had been shipped in 25-pound cartons and all but 6 cartons had been repackaged by the consignee into 1¼-ounce packages.

On May 29, 1943, the United States attorney for the Western District of Washington filed a libel against 6 cartons and 250 packages of green cero tea at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about February 3, 1943, by the K. & C. Tea Co., from St. Paul, Minn.; and charging that it was adulterated and misbranded. The cartons were labeled: "25 Lbs. American Green Cero Tea K. & C. Tea Co." The repackaged product was labeled in part: "American Green Cero Tea Packed by Commercial Importing Co., Seattle, Wash."

The article was alleged to be adulterated in that dried grass had been substituted in whole or in part for green tea which it purported and was represented to be. It was alleged to be misbranded (1) in that that the name "American Green Cero Tea" was misleading as applied to dried grass; (2) in that it was offered for sale under the name of another food, green tea; and (3) in that its label failed to bear the common or usual name of the food. The product in the cartons was alleged to be misbranded further in that it was in package form and failed to bear a label containing the address of the manufacturer, packer, or distributor.

On November 8, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5407. Misbranding of coffee substitute. U. S. v. 1 Carton and 18 Bags of Coffee Substitute. Default decree of condemnation and destruction. (F. D. C. No. 10128. Sample No. 42439–F.)

On July 1, 1943, the United States attorney for the Western District of Washington filed a libel against 1 carton containing 36 bags of coffee substitute, and 18 bags of coffee substitute at Seattle, Wash., alleging that the article had been shipped on or about May 21, 1943, from Los Angeles, Calif., for American Dietaids; and charging that it was misbranded. The article was labeled in part: (Carton) "3 Dozen 1 lb. Bags Amazing New Beverage for Coffee Lovers American Dietaids Brevy," and (bags) "American Dietaids Victory Brevy * * * New Delicious Coffee Substitute Victory Brevy No Coffee Ingredients: Roasted Wheat, Roasted Barley, Chickory, Rye, Vitamin B_1 (150 Int'l Units per Oz. 1 Pound Net."

The article was alleged to be misbranded in that the statements, (carton) "Amazing New Beverage for Coffee Lovers Deliciousness and Taste of Genuine Coffee," and (bags) "Coffee Substitute Prepare exactly like regular coffee. Coffee Qualities," were false and misleading as applied to a roasted mixture of cereals with chicory, having no coffee odor or taste, containing no caffeine, and therefore without the stimulating properties of coffee; and in that the statements "Needed every day to insure Normal Nerve Functioning and Proper Digestion. It is essential for our daily Energy Needs. This is more Vitamin B_1 than you might get in a glass of fresh whole milk or a slice of whole wheat bread," were misleading since they gave an exaggerated and unwarranted impression of the nutritional value of the article.

On November 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5408. Misbranding of coffee stretcher. U. S. v. 42 Cases of Coffee Stretcher. Default decree of condemnation and destruction. (F. D. C. No. 10271. Sample No. 35435–F.)

Analysis showed that this product consisted of chick peas and chicory.

On July 19, 1943, the United States attorney for the Northern District of Georgia filed a libel against 42 cases, each containing 30 bags, of coffee stretcher at Atlanta, Ga., alleging that the article had been shipped on or about March 11 and 18, 1943, by the American Tea & Coffee Co., Inc., from Nashville, Tenn.; and charging that it was misbranded. The article was labeled in part: (Bag) "American Coffee Stretcher Makes Coffee Go Twice As Far Genuine Mexican Garbanzos Blended With Chicory."

The article was alleged to be misbranded in that the statement "Coffee Stretcher Makes Coffee Go Twice As Far" was misleading since the product would not make coffee go twice as far but would merely dilute the coffee when mixed with it; and in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each of such ingredients since genuine Mexican garbanzos is not the common or usual name of chick peas or garbanzo beans.

On September 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5409. Misbranding of KOF-EE-AID. U. S. v. 100 Cases of KOF-EE-AID. Consent decree of condemnation. Product ordered released under bond, conditioned that it be relabeled. (F. D. C. No. 9889. Sample No. 23539–F.)

On April 30, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 100 cases, each containing 12 jars, of KOF-EE-AID at Philadelphia, Pa., alleging that the article was shipped on or about April 7, 1943, from Paterson, N. J., by the Industrial Sales Corp.; and charging that it was misbranded. The article was labeled in part: (Jars) "KOF-EE-AID 3 for 2 * * * Finest coffee stretcher in the world. Made of pure roasted malt. * * * 'KOF-EE-AID' protects your natural coffee flavor."

The article was alleged to be misbranded (1) in that the name "KOF-EE-AID" and the statements, "KOF-EE-AID protects your natural coffee flavor * * * Finest coffee stretcher in the world," were false and misleading as applied to an article consisting of ground, roasted malted barley and containing no coffee; (2) in that the statement "3 for 2," printed across the picture of a coffee cup and saucer, was false and misleading since it implied that KOF-EE-AID would stretch 2 cups of coffee to 3; and (3) in that its label failed to bear the common or usual name of the food, ground, roasted malted barley.

On May 14, 1943, the Industrial Sales Corp., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled under the supervision of the Food and Drug Administration. Subsequently the product was destroyed by the claimant.

5410. Misbranding of coffee substitute. U. S. v. 25 Cases and 6 Free Samples of Coffee Substitute. Default decree of condemnation and destruction. (F. D. C. No. 10129. Sample No. 30798–F.)

On July 2, 1943, the United States attorney for the Western District of Washington filed a libel against 25 cases and 6 small, free samples of coffee substitute at Seattle, Wash., alleging that the article had been shipped from Salt Lake City, Utah, on or about May 28, 1943, by the Market Wholesale Grocery Co.; and charging that it was misbranded. The article was labeled in part: (Packages) "Maid-O-Barley Coffee Substitute * * * Prepared by National Tea Importing Co. Salt Lake City—Utah," or (sample bags) "Free Sample Maid-O-Barley Brand Coffee Substitute."

The article was alleged to be misbranded in that the statements appearing on the packages, "Coffee Substitute—That Coffee Like Taste," and appearing on the sample bags, "Coffee Substitute Rich in Minerals and Vitamins—A True Vitality Beverage * * * invigorating," were false and misleading as applied to roasted barley which contains no caffeine, has none of the characteristics or stimulating effects of coffee, and would not contribute, as consumed, significant amounts of minerals and vitamins to the diet; and in that the common or usual name of the article, roasted barley, required by law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

On November 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5411. Misbranding of Finesscovee. U. S. v. 4 Cases of Finesscovee. Default decree of condemnation and destruction. (F. D. C. No. 10244. Sample No. 11323–F.)

On July 16, 1943, the United States attorney for the Northern District of California filed a libel against 4 cases, each containing 12 jars, of Finesscovee at Oakland, Calif., alleging that the article had been shipped in interstate commerce from Cleveland, Ohio, on or about May 19, 1943, by J. B. Robinson; and charging that it was misbranded. The article was labeled in part: (Jars, main panel) "Instant Finesscovee A Fine Pulverized Covee Combined with Dextrose, Maltose, Powdered Dry Milk, Solids from Fresh Wholesome Milk * * * Including Fresh Roasted Maltose, Pulverized Barley, Soy Beans, Cereals, Dextrose * * * The Finest Covee Compound," and (side panel) "'Finesscovee' is Made From Fresh Roasted Barley, Milk Solids, Chicory and Fresh Selected Soya Beans."

The article was alleged to be misbranded in that the name "Finesscovee" and the statement "Finest Covee Compound" were misleading since they were obviously a play on the words "finest coffee," and implied that coffee was present. It was alleged to be misbranded further in that the manner of declaring the ingredients on the main panel of the label was repetitious and confusing and therefore not in such terms as to render it likely to be understood by ordinary individuals, since it gave the impression that it consisted of more ingredients than was actually the case; and in that the words "Soy Beans" and "Soya Beans" in the ingredient statements on the main and side panels, respectively, were false and misleading since the article contained no soy beans.

On November 3, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5412. Misbranding of grape juice drink. U. S. v. 17 Cases, 35 Cases, and 29 Cases of a Grape Juice Drink. Default decrees of condemnation. Product ordered distributed to charitable institutions. (F. D. C. Nos. 10357, 10404. Sample Nos. 45006–F, 46171–F, 46172–F.)

On or about August 3 and 16, 1943, the United States attorneys for the District of Columbia and the District of Connecticut filed libels against 35 cases, each containing 12 quarts, and 29 cases, each containing 24 pints, of grape juice drink at Washington, D. C., and 17 cases, each containing 12 quarts, of grape juice

drink at Waterbury, Conn., alleging that the articles had been shipped on or about June 28 and July 1, 1943, in interstate commerce from Brooklyn, N. Y., by the Goodman Products Corp.; and charging that it was misbranded. The article was labeled in part: (Bottles) "Grapelane Brand Grape Juice Drink * * * Packed by Paradise Packing Co., 68 Jay St. Brooklyn, N. Y."

It was alleged to be misbranded (1) in that the name "Grapelane" and the words "Grape Juice" were misleading as applied to an imitation grape juice consisting of an artificially flavored and colored solution of water, sugar or sugars, grape juice, phosphoric acid, and benzoate of soda; and (2) in that it was an imitation of another food, grape juice, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.

On September 30, and October 5, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

CEREAL AND CEREAL PRODUCTS

ALIMENTARY PASTES

5413. Adulteration of egg noodles. U. S. v. A. Zerega's Sons, Inc. Plea of guilty. Fine, $900. (F. D. C. No. 10563. Sample Nos. 19136–F, 44362–F, 44363–F, 45067–F, 45068–F.)

On October 26, 1943, the United States attorney for the Eastern District of New York filed an information against A. Zerega's Sons, Inc., Brooklyn, N. Y., alleging shipment on or about February 10 and March 23 and 24, 1943, from the State of New York into the State of New Jersey of quantities of egg noodles that were adulterated. The article was labeled in part: (Cartons) "Flagstaff * * * Pure Egg Noodles Distributors Greenspan Bros. Co., Perth Amboy, N. J.," "Filigree Quality Egg Noodles Filigree Quality Foods, Inc., Jersey City, New Jersey Distributors," or (on slips inserted within cellophane wrappers) "Fisher's Cream of the Crop Egg Noodles Packed by Fisher Milling Co. Bayonne, N. J."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance because of the presence of one or more of the following: Rodent hairs, rodent hair fragments, hair fragments resembling rodent hairs, fragments of human and unidentified hair, insect fragments, wood splinters, cat hair, and a metal chip; and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

On November 26, 1943, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $300 on each of the 3 counts.

5414. Adulteration and misbranding of egg noodles. U. S. v. 65 Cartons of Egg Noodles (and 6 additional seizure actions against egg noodles). Default decrees of condemnation. Two lots ordered delivered to welfare organizations; remaining lots ordered destroyed. (F. D. C. Nos. 10351, 10353, 10361, 10362, 10378 to 10380, incl., 10432. Sample Nos. 33483–F to 33485–F, incl. 33694–F, 33695–F, 34153–F, 34211–F, 44242–F, 45395–F, 56481–F to 56484–F, incl.)

On August 3, 5, 6, 9, 10, and 18, 1943, the United States attorneys for the Southern and Western Districts of New York and the Northern District of Ohio filed libels against 65 cartons and 522 cases of egg noodles at New York, N. Y., 61 cases at Youngstown, Ohio, 69 cartons and 89 cases at Mt. Vernon, N. Y., 32 cartons at Yonkers, N. Y., 122 cases at Buffalo, N. Y., and 302 cases at Olean, N. Y., alleging that the article had been shipped in interstate commerce within the period from on or about March 1 to June 28, 1943, by National Foods, Inc., from Pittsburgh, Pa.; and charging that it was adulterated and misbranded. The article was labeled in part: "Pure Egg Noodles," or "Marjorie Daw Pure Egg Noodles * * * Contains 5.5% Egg Solids, No artificial Coloring Added."

The article was alleged to be adulterated (1) in that a valuable constituent, egg, had been in whole or in part omitted therefrom; (2) in that artificially colored noodles deficient in egg solids had been substituted in whole or in part for pure egg noodles, which they purported and were represented to be; (3) in that inferiority had been concealed by the addition of artificial color; and (4) in that artificial coloring had been added thereto or mixed or packed therewith so as to make it appear better or of greater value than it was.

The article was alleged to be misbranded in that the statements, "Pure Egg Noodles", with respect to one lot, and "Pure Egg Noodles * * * Contains 5.5% Egg Solids, No Artificial Coloring Added," with respect to the other lots,

were false and misleading as applied to artificially colored noodles deficient in egg solids.

On September 7, 14, 20, and 28, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed. On September 27, 1943, the decrees covering the lots located at Buffalo and Olean, N. Y., were amended to permit delivery of the product to welfare organizations.

5415. Adulteration of macaroni. U. S. v. 13 Cases of Macaroni. Default decree of condemnation and destruction. (F. D. C. No. 10336. Sample No. 56524–F.)

Examination of this product showed the presence of insects, insect fragments, and rodent hair fragments.

On or about July 29, 1943, the United States attorney for the Southern District of New York filed a libel against 13 cases, each containing 20 pounds, of macaroni at Bronx, N. Y., alleging that the article had been shipped on or about July 6, 1943, by B. Filippone & Co., from Passaic, N. J.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: "Puccini Brand * * * Macaroni."

On August 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5416. Adulteration of macaroni. U. S. v. 87 Cases of Macaroni. Default decree of condemnation and destruction. (F. D. C. No. 10522. Sample No. 35601–F.)

On September 2, 1943, the United States attorney for the Northern District of Georgia filed a libel against 87 cases, each containing 24 packages, of macaroni at Atlanta, Ga., alleging that the article had been shipped on or about July 15, 1943, in interstate commerce, by the Tampa Macaroni Co., Inc., from Tampa, Fla.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances by reason of the presence therein of insect fragments and hair fragments resembling rodent and cat hairs; and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: (Packages) "Tampa-Maid Brand Macaroni."

On September 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

BAKERY PRODUCTS

5417. Adulteration of bakery products. U. S. v. Agnew B. Cowan (Cowan Baking Co.). Plea of guilty. Fine, $250. (F. D. C. No. 10556. Sample Nos. 46218–F, 46220–F to 46223–F, incl., 46225–F, 46227–F to 46230–F, incl.)

Samples of these products were found to contain rodent hairs, hair fragments resembling rodent hair, or insect fragments.

On October 20, 1943, the United States attorney for the Northern District of West Virginia filed an information against Agnew B. Cowan, trading as Cowan Baking Co., at Morgantown, W. Va., alleging shipment on or about April 14, 1943, from the State of West Virginia into the State of Pennsylvania of quantities of bread, doughnuts, and buns, which were adulterated in that they consisted in whole or in part of filthy substances; and in that they had been prepared under insanitary conditions whereby they might have become contaminated with filth. The articles were labeled in part: "Cowan's 'Enriched' Bread," "Cowan's Super Donuts," "Cowan's Sliced Buns," or "Cowan's Wheat Bread."

On October 22, 1943, the defendant having entered a plea of guilty, the court imposed a fine of $50 on each of 5 counts, totaling $250.

5418 Adulteration of biscuits. U. S. v. Loose-Wiles Biscuit Company. Plea of guilty. Fine, $250. (F. D. C. No. 7296. Sample No. 93406–E.)

On November 10, 1942, the United States attorney for the Western District of Washington filed an information against the Loose-Wiles Biscuit Company, a corporation, Seattle, Wash., alleging shipment on or about March 26, 1942, from the State of Washington into the territory of Alaska, of a quantity of biscuits that were adulterated. They were labeled in part: (Box) "P. E. Harris & Co. Hawk Inlet Alaska Sunshine Biscuits."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance because of the presence of hairs resembling rodent hairs, and in that it had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth.

On January 9, 1943, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $250.

5419. Adulteration of cakes. U. S. v. Turner Manufacturing Company, Inc. Plea of nolo contendere. Imposition of sentence suspended and defendant placed on probation for 1 year. (F. D. C. No. 9652. Sample Nos. 32642–F, 32643–F, 32647–F, 32649–F.)

On June 17, 1943, the United States attorney for the Northern District of Georgia filed an information against the Turner Manufacturing Co., Inc., Atlanta, Ga., alleging shipment on or about March 4 and 8, 1943, from the State of Georgia into the State of Tennessee of quantities of bakery products that were adulterated. The articles were labeled in part: "Merita Pineapple Pound," or "Merita * * * Dainty Biscuits."

The articles were alleged to be adulterated in that they consisted in whole or in part of filthy substances by reason of the presence of one or more of the following types of filth: Rodent excreta fragments, rodent hair fragments, and insect fragments. They were alleged to be adulterated further in that they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

On September 13, 1943, a plea of nolo contendere having been entered on behalf of the defendant, the court suspended imposition of sentence and placed the defendant on probation for 1 year.

5420. Adulteration of crackers. U. S. v. Hiram P. Swinson (Swinson Food Products). Plea of nolo contendere. Fine, $100. (F. D. C. No. 9669. Sample Nos. 28800–F, 35334–F, 35335–F.)

Examination of these products showed the presence of filth such as rodent excreta and rodent hair fragments.

On July 8, 1943, the United States attorney for the Western District of North Carolina filed an information against Hiram P. Swinson, trading as Swinson Food Products, at Charlotte, N. C., alleging shipment on or about February 20 and March 20, 1943, from the State of North Carolina into the State of South Carolina of quantities of crackers that were adulterated in that they consisted in whole or in part of filthy substances, and in that they had been prepared under insanitary conditions whereby they might have become contaminated with filth. The articles were labeled in part: "S&P Tas–T–Cheez," "S&P Sq.–Cheez–Toastie," or "S&P Choc–Cream."

On October 7, 1943, a plea of nolo contendere was entered on behalf of the defendant. On April 6, 1944, the court imposed a fine of $100.

5421. Adulteration of crackers. U. S. v. United Biscuit Company of America (Union Biscuit Company, Division of United Biscuit Company of America). Plea of nolo contendere. Fine, $2,000. (F. D. C. No. 9620. Sample Nos. 5866–F to 5869–F, incl.)

On May 1, 1943, the United States attorney for the Eastern District of Missouri filed an information against the Union Biscuit Company, a corporation, operating under the name Union Biscuit Company, Division of the United Biscuit Company of America. On June 28, 1943, the Union Biscuit Company, Division of the United Biscuit Company of America, a corporation, entered a special appearance and a plea denying that it was a corporation. On September 20, 1943, an amended information was filed, naming the United Biscuit Company of America, a corporation, operating under the name of Union Biscuit Company, Division of the United Biscuit Company of America, as defendant. It was alleged in the information, as amended, that the defendant had shipped, within the period from on or about December 14, 1942, to on or about January 5, 1943, from the State of Missouri into the State of Tennessee quantities of crackers which were adulterated. The article was labeled in part: "Princess Crackers," "Honey Flavored Graham Crackers," or "Supreme Che–Zo–Crackers."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of rodent hairs and insect fragments, and in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

On December 16, 1943, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of $500 on each of the 4 counts, a total fine of $2,000.

5422. Adulteration of pies. U. S. v. Paradise Baking Corporation. Plea of not guilty. Trial commenced before a jury. Jury dismissed; plea of guilty. Fine, $500. (F. D. C. No. 9649. Sample Nos. 33409–F, 33411–F, 33413–F, 33414–F.)

On June 24, 1943, the United States attorney for the Eastern District of New York filed an information against the Paradise Baking Corporation of Brooklyn, N. Y., alleging shipment on or about February 13, 1943, from the State of New York into the State of New Jersey of quantities of pies that were adulterated in that they consisted in whole or in part of filthy substances by reason of the presence therein of one or more of the following types of filth: Rodent excreta pellet fragments, rodent hair fragments, hair fragments resembling rodent or cat hair, insect fragments, insect excreta, larvae, mites, feather fragments, wood splinters, and nondescript dirt. It was alleged to be adulterated further in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

On October 25, 1943, the defendant having entered a plea of not guilty, the case came on for trial before the court and a jury. The trial continued through October 27 and a part of October 28, on which date counsel for the defense moved that the jury be dispensed with and that the case proceed with the court sitting as judge and jury. The motion was granted, but on November 1, 1943, the date set for resumption of the trial, a plea of guilty was entered and a fine of $500 was imposed.

5423. Adulteration and misbranding of bread. U. S. v. The Jessee Baking Co. Plea of guilty. Fine, $300. (F. D. C. No. 9685. Sample Nos. 16190–F, 16191–F, 16193–F to 16196–F, incl.)

Samples of this product were found to contain one or more of the following types of filth: Threads, rodent-type hairs, feathers barbules, and a beetle body part. Samples taken from certain shipments were also found to be short weight.

On August 14, 1943, the United States attorney for the District of Colorado filed an information against the Jessee Baking Co., a corporation trading at Sterling, Colo., alleging shipment on or about April 2, and 6, 1943, from the State of Colorado into the State of Nebraska of a quantity of bread which was adulterated, and a portion of which was misbranded. The article was labeled in part,: "Jessee's * * * Enriched," "Mrs. Jessee's Cottage Loaf," "Jessee's * * * Sandwich Loaf," "Jessee's * * * Whole Wheat," or "Mrs. Jessee's Honey Cracked Wheat."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

Portions were alleged to be misbranded in that the statements, "Weight 20 Ozs.," "Weight 24 Ozs.," "Weight 16 Oz.," and "Net Weight 16 Ounces," borne on the labels, were false and misleading since the loaves did not weigh the amounts so represented, but did weigh smaller amounts; and in that the product was in package form and its label failed to bear an accurate statement of the quantity of the contents in terms of weight, since the statements of weight borne on the labels were incorrect.

On September 22, 1943, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $300.

5424. Misbranding of cookies. U. S. v. 300 Packages of Cookies. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 10355. Sample No. 45005–F.)

This product was packed in a rectangular box with a cellophane window in the cover. There were 8 paper cups in the box, each containing 3 cookies. Two additional cups of cookies could be packed in the box. Examination showed that the product was short of the declared weight.

On August 5, 1943, the United States attorney for the District of Connecticut filed a libel against 300 packages of cookies at West Haven, Conn., alleging that the article had been shipped in interstate commerce on or about July 20, 1943, from Mt Vernon, N. Y., by the Fleetwood Baking Co., Inc.; and charging that it was misbranded. The article was labeled in part: "Superior Quality Cookies * * * Weight 10 Oz. When Packed."

The article was alleged to be misbranded in that the statement "Weight 10 Oz. When Packed" was false and misleading as applied to a product that was short weight in that its container was so filled as to be misleading, since 25 percent more cookies could be packed in the box, and in that it was in package form and

failed to bear a label containing an accurate statement of the quantity of the contents.

On October 5, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

CORN MEAL

5425. Adulteration of corn meal. U. S. v. Shreveport Grain & Elevator Company, Inc., and James E. Cawthon. Plea of nolo contendere. Sentence suspended for a period of 3 years. (F. D. C. No. 10564. Sample Nos. 41381–F, 41382–F.)

On October 22, 1943, the United States attorney for the Western District of Louisiana filed an information against the Shreveport Grain & Elevator Co., Inc., Shreveport, La., and James E. Cawthon, alleging shipment on or about March 21, 1943, from the State of Louisiana into the State of Mississippi of quantities of corn meal that was adulterated. It was labeled in part: (Sacks) "Red Head Corn Meal," or "Blue Bird Cream Corn Meal".

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance because of the presence of rat or mouse excreta fragments, rat or mouse hairs, insect fragments, and feather fragments; and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

On October 22, 1943, a plea of nolo contendere having been entered by the defendants, the court suspended sentence for a period of 3 years.

5426. Adulteration of corn meal. U. S. v. 208 Bags of Corn Meal. Default decree of condemnation and destruction. (F. D. C. No. 10314. Sample No. 23077–F.)

Examination of this product showed the presence of rodent hairs and rodent excreta.

On July 22, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 208 bags of corn meal at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about June 24 and 30, 1943, by the Davis Milling Co., Inc., from Norfolk, Va.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance.

On August 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FLOUR

5427. Adulteration of flour. U. S. v. 161 Bags of Flour. Consent decree of condemnation. Product ordered released under bond for denaturing. (F. D. C. No. 8478. Sample No. 17847–F.)

On October 5, 1942, the United States attorney for the Eastern District of New York filed a libel against 161 bags, each containing 140 pounds, of flour at Brooklyn, N. Y., alleging that the article had been shipped in interstate commmerce on or about May 4, 1942, by the Larabee Flour Mills from Hutchinson, Kans.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, beetles, larvae, larva casts, and mites. The article was labeled in part: (Bag) "Ritchie Flour * * * Packed for B. Wilk & Son Brooklyn, N. Y."

On March 17, 1943, Benjamin Wilk, doing business as B. Wilk & Son, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for denaturing, under the supervision of the Food and Drug Administration, with a view to its use as animal food.

5428. Adulteration of flour. U. S. v. 45 Bags of Flour. Default decree of condemnation. Product ordered denatured for use as animal feed and delivered to a county institution. (F. D. C. No. 11007. Sample No. 21928–F.)

On October 23, 1943, the United States attorney for the Western District of Pennsylvania filed a libel against 45 bags of flour at Ambridge, Pa. This libel was subsequently amended. The amended libel alleged that the article had been shipped in interstate commerce on or about June 17, 1943, by the Washburn Crosby Co., Eastern Division of General Mills, from Buffalo, N. Y.; and charged that it was adulterated in that it consisted in whole or in part of filthy substances by reason of the presence therein of insects, larvae, webbing, insect fragments, and insect excreta. The article was labeled in part: "PurAsnow Vitamin & Iron Enriched Flour Bleached."

On December 17, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered denatured for use as animal feed and delivered to a county institution.

5429. Adulteration of flour. U. S. v. 135 Bags and 738 Bags of Flour. Consent decree of condemnation. Product ordered released under bond, or upon deposit of cash collateral, for segregation of good portion and treatment of unfit portion so that it could not be used for human consumption. (F. D. C. No. 10108. Sample Nos. 23430–F, 23431–F.)

This product had been stored under insanitary conditions after shipment. Many of the bags were rodent-gnawed, and numerous mouse pellets and gnawed paper were found throughout the storage room. Examination of samples showed the bags and flour were contaminated with rodent hair, rodent excreta, and urine.

On June 17, 1943, the United States attorney for the District of New Jersey filed a libel against 873 bags of flour at Bridgeton, N. J., alleging that the article had been shipped from Buffalo, N. Y., within the period from on or about October 2, 1942, to March 31, 1943, and that it remained in interstate commerce in the possession of Home Town Stores, Inc., Bridgeton, N. J.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, i. e., flour contaminated with rodent hairs, rodent excreta, and urine; and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On September 28, 1943, Home Town Stores, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released upon the deposit of cash collateral, or the execution of a bond, conditioned that the good portion be segregated and that the unfit portion be treated so that it could not be used for human consumption, all under the supervision of the Food and Drug Administration.

5430. Adulteration of flour. U. S. v. 450 Bags of Flour. Consent decree of condemnation. Product ordered released under bond for reprocessing into animal feed. (F. D. C. No. 10461. Sample No. 28037–F.)

On August 23, 1943, the United States attorney for the Northern District of Georgia filed a libel against 450 bags of flour at Atlanta, Ga., alleging that the article had been shipped on or about February 15, 1943, by the Barnes Milling Co. from Beaver Dam, Ky.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of weevils, larvae, and cast skins. The article was labeled in part: "White Parrot Short Patent Flour."

On October 12, 1943, the Joe Seitz Wholesale Grocery Co., Atlanta, Ga., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reprocessing into animal feed under the supervision of the Food and Drug Administration.

5431. Adulteration of flour. U. S. v. 49 Bags of Flour. Default decree of condemnation and destruction. (F. D. C. No. 10454. Sample No. 28035–F.)

On August 21, 1943, the United States attorney for the Northern District of Georgia filed a libel against 49 bags of flour at Atlanta, Ga., alleging that the article had been shipped on or about April 29, June 17, and July 21, 1943, by the Ph. H. Postel Milling Co. from Mascoutah, Ill.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of larvae and cast skins. The article was labeled in part: "Ph. H. Postel's Elegant Soft Winter Wheat Bleached Flour."

On September 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. Destruction was effected by delivery of the product to a Federal institution for use as hog feed.

5432. Adulteration of flour. U. S. v. 26 Barrels and 72 Barrels of Flour. Default decree of condemnation. Product ordered delivered to a representative of the Food and Drug Administration. (F. D. C. No. 10329. Sample Nos. 41021–F, 41022–F.)

Examination showed that this article contained insects, larvae, pupae, and larva cast skins.

On July 27, 1943, the United States attorney for the Western District of Texas filed a libel against 26 300-pound barrels and 72 250-pound barrels of flour at San Antonio, Tex., alleging that the article, which had been consigned by the Griffith Laboratories, Omaha, Nebr., had been shipped on or about January 18 and February 10, 1943, in interstate commerce; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The

article was labeled in part: (26 barrels) "Griffith's Golden Cereal Binder Fine," or (72 barrels) "Griffith's Gelatinous Processed From Select Maize Processed Sausage Flour."

On September 26, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a representative of the Food and Drug Administration. The product was thereafter denatured and distributed to charitable institutions for use as animal feed.

5433. Adulteration of enriched flour and enriched self-rising flour. U. S. v. 73 Bags and 24 Bags of Flour. Default decrees of condemnation and destruction. (F. D. C. Nos. 10375, 10434. Sample Nos. 34555–F, 40920–F.)

This product contained one or more of the following filthy substances: Insects, larvae, and cast skins.

On or about August 11 and 18, 1943, the United States attorneys for the Southern District of Florida and the Eastern District of Louisiana filed libels against 73 bags of flour at Jacksonville, Fla., and 24 bags of flour at New Orleans, La., alleging that the article had been shipped on or about March 3 and 15, 1943, from Louisville, Ky., by Ballard & Ballard Co.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (Bag) "Ballard's Obelisk Flour," or "Balloon Enriched Self-Rising Flour. * * * Pioneer Mills Louisville, Kentucky."

On September 13 and October 18, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5434. Adulteration of whole wheat flour. U. S. v. 27 Bags of Whole Wheat Flour. Decree of condemnation and destruction. (F. D. C. No. 10421. Sample No. 52894–F.)

Examination showed that this product contained insects, larvae, cast skins, larvae head capsules, insect fragments, and mites.

On August 16, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 27 bags, each containing 98 pounds, of whole wheat flour at Norfolk, Va., alleging that the article had been shipped on or about February 20 and March 10, 1943, from Detroit, Mich., by the Henkel Flour Mills (Commercial Milling Co.); and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (Bag) "Henkel's Extra Fancy 100% Whole Wheat Flour."

On October 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MISCELLANEOUS CEREAL PRODUCTS

5435. Adulteration of barley. U. S. v. 5 Bags of Barley. Default decree of condemnation and destruction. (F. D. C. No. 10874. Sample No. 34274–F.)

On October 5, 1943, the United States attorney for the Western District of Pennsylvania filed a libel against 5 100-pound bags of barley at Sharon, Pa., alleging that the article had been shipped in interstate commerce on or about April 9, 1943, by the Quaker Oats Co. from Akron, Ohio; and charging that it was adulterated in that it consisted in whole or in part of filthy substances by reason of the presence therein of insects, larvae, and insect fragments. The article was labeled in part: "Schumacher * * * Chester Pearl Barley."

On November 11, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5436. Adulteration of corn flakes. U. S. v. 45 Bags of Corn Flakes. Default decree of condemnation and destruction. (F. D. C. No. 10199.) Sample No. 39211–F.)

On July 5, 1943, the United States attorney for the Southern District of California filed a libel against 45 bags of corn flakes at Los Angeles, Calif., alleging that the article had been shipped on or about March 24, 1943, in interstate commerce, by the Decatur Milling Co. from Decatur, Ill.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, i. e., larvae, insects, and webbing. The article was labeled in part: (Bags) "Hexagon Brand Cream of Maize * * * Bakers and Confectioners Corn Flakes."

On September 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5437. Adulteration of rye meal. U. S. v. 6 Bags of Rye Meal. Decree of condemnation. Product ordered released under bond for denaturing and use as animal feed. (F. D. C. No. 10798. Sample No. 53406–F.)

On September 20, 1943, the United States attorney for the Southern District of West Virginia filed a libel against 6 bags of rye meal at Charleston, W. Va., alleging that the article had been shipped in interstate commerce on or about July 8, 1943, by the Bay State Milling Co. from Winona, Minn.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances by reason of the presence therein of larvae, insect fragments, rodent hair fragments, and rodent excreta fragments. The article was labeled in part: "Wingold Rye Meal."

On September 28, 1943, the Bay State Milling Co. of Winona, Minn., and the Elk Storage Warehouse Co. of Charleston, W. Va., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for denaturing under the supervision of the Food and Drug Administration, and disposition as animal feed.

5438. Misbranding of Egg-Dough Stabilizer. U. S. v. 43 Drums, 97 Drums and 50 Drums of Egg-Dough Stabilizer. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 10698. Sample No. 15200–F.)

Analysis showed this product to be essentially flour, with small amounts of eggs (approximately 10% egg yolk solids present), sugar, and fat; it also contained soy flour.

On September 9, 1943, the United States attorney for the Southern District of California filed a libel against 43 200-pound drums, 97 100-pound drums, and 50 50-pound drums of the above-named product at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about July 28, 1943, by the American Breddo Corporation from New York, N. Y.; and charging that it was misbranded. The article was labeled in part: (Drum) "GOLDDO EGG-DOUGH STABILIZER (vignette of chicken)."

The article was alleged to be misbranded in that the following statements: "Egg-Dough Stabilizer For Extra Fine Quality"; "Use 50% GOLDDO Solution to replace an equal amount of Eggs in Cookies, Yeast-raised Sweet Goods, Egg Bread and Hard Rolls. Use 25% GOLDDO Solution to replace an equal amount of Eggs in Cups, Layers and Loaves"; and "GOLDDO Solution * * * has to be kept under refrigeration the same as Shelled Eggs," together with the design of a chicken, borne on the label, were false and misleading since they created the impression that the article contained a substantial amount of eggs and might be used as a substitute for eggs, whereas it did not contain a substantial amount of eggs and could not be used as a substitute for eggs. It was alleged to be misbranded further in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient since the common or usual names of the "Farinaceous products" mentioned under "Contents" were not given, and since soy flour was not declared in the list of ingredients.

On September 23, 1943, the American Breddo Corp., having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5439. Misbranding of white rice. U. S. v. 141 Cases of White Rice. Consent decree of condemnation. Product ordered released under bond to be repackaged. (F. D. C. No. 10667. Sample No. 6562–F.)

This product was short weight.

On September 2, 1943, the United States attorney for the Eastern District of Missouri filed a libel against 141 cases, each containing 50 cartons, of white rice at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about July 17 and 19, 1943, by the Jonesboro Rice Mill Co., from Jonesboro, Ark.; and charging that it was misbranded. The article was labeled in part: (Cartons) "One Pound Net Weight River Brand White Rice Packed by Southern Rice Sales Co., Inc., New York, N. Y." The article was alleged to be misbranded in that the statement "One Pound Net Weight" was false and misleading as applied to an article that was short weight, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On September 28, 1943, the Southern Rice Sales Co., Inc., having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be repackaged under the supervision of the Food and Drug Administration.

CHOCOLATE, SUGARS, AND RELATED PRODUCTS

CANDY*

5440. Adulteration of candy. U. S. v. 3 Cartons and 10 Boxes of Candy (and 2 other seizure actions against candy). Decrees of condemnation and destruction. (F. D. C. Nos. 10498, 10511, 10513. Sample Nos. 46185–F, 46187–F, 46190–F, 46192–F, 46193–F, 46197–F, 46198–F, 53319–F to 53321–F, incl.)

Examination showed that various portions of this product contained one or more of the following filthy substances: Larvae, insects, larva and insect fragments, rodent hair fragments, cast skins, and larvae cast skins.

On August 24, and 30, 1943, the United States attorney for the Western District of Virginia and the District of Columbia filed libels against 3 cartons and 10 boxes of candy at Front Royal, Va., and a total of 598 boxes of candy at Washington, D. C., alleging that the article had been shipped within the period from on or about July 23 to August 13, 1943, by or from the General Candy Co., Baltimore, Md.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: (Carton) "Baltimore Ices," or "Assorted Cocoanut Bonbons"; (boxes) "Peppermint Puffs," "Peanut Brittle Bars," "Peanut Bars," "Big Chief Peanut Bars," "Pe-Co Chop Suey Squares," or "Cocoanut Bon Bons Assorted."

On October 7 and 25, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5441. Adulteration of candy. U. S. v. 10 Cartons of Candy. Decree of condemnation and destruction. (F. D. C. No. 10514. Sample No. 46188–F.)

On August 30, 1943, the United States attorney for the District of Columbia filed a libel against 10 cartons of candy at Washington, D. C., alleging that the article had been shipped on or about August 4, 1943, from Baltimore, Md., by the Virginia Peanut Co.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of larvae, larva fragments, and insect fragments, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: (Carton) "Assorted Cocoanut Bonbons * * * Manufactured by General Candy Company 515 W. Lombard St. Baltimore, Md."

On October 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5442. Misbranding of candy. U. S. v. Cardinet Candy Company, Inc. Plea of nolo contendere. Fine, $50. (F. D. C. No. 10573. Sample No. 42648–F.)

On November 12, 1943, the United States attorney for the Northern District of California filed an information against the Cardinet Candy Co., Inc., Oakland, Calif., alleging shipment on or about May 3, 1943, from the State of California into the State of Oregon of 2 cases, each containing a number of candy bars that were misbranded. The article was labeled in part: (Wrapper enclosing candy bar) "Cardinet's Almond Toffee. Net Weight 1 Oz."

The article was alleged to be misbranded in that the statement "Net Weight 1 Oz" borne on the wrapper was false and misleading since each of the candy bars weighed less than 1 ounce net; and in that it was in package form and did not bear a label containing an accurate statement of the quantity of the contents in terms of weight.

On November 26, 1943, a plea of nolo contendere having been entered, the court imposed a fine of $50.

5443. Misbranding of candy. U. S. v. 22 Cases and 25 Cases of Candy. Consent decree of condemnation. Product ordered released under bond for relabeling and repacking. (F. D. C. No. 10345. Sample Nos. 12285–F, 12286–F.)

This candy was contained in small cedar chests, each chest containing a cellophane-wrapped tray of candy which was elevated by means of a false bottom.

*See also, Gift Packages.

When opened, the chest appeared full of candy. The candy occupied, however, only approximately 31 percent of the capacity of the container. The label failed to bear the name and place of business of the manufacturer, packer, or distributor.

On August 6, 1943, the United States attorney for the District of Oregon filed a libel against 47 cases, each containing 12 cedar chests, of candy at Portland, Oreg., alleging that the article had been shipped in interstate commerce by the Evans Novelty Co. from Chicago, Ill., on or about June 25 and 28, 1943; and charging that it was misbranded. Each chest contained a cellophane-wrapped tray of candy with a sticker label reading: "De Luxe Assortment Ingredients * * * Net Weight 1 Pound."

The article was alleged to be misbranded in that the containers were so filled as to be misleading, since the candy occupied only approximately 31 percent of the capacity of the container, and in that it was food in package form but failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

On August 19, 1943, Victor's Novelty Co., Portland, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled and repacked in a manner satisfactory to the Food and Drug Administration.

5444. Misbranding of candy. U. S. v. 6 Cases, 5 Cases, and 32 Cartons of Candy. Consent decree of condemnation. Product ordered released under bond for repacking. (F. D. C. No. 10346. Sample Nos. 12278–F, 12279–F, 43102–F.)

This candy was contained in cedar chests or boxes, each chest or box containing a cellophane-wrapped tray of candy which was elevated by means of a false bottom. When opened, the chests and boxes appeared to be full of candy. The trays, however, occupied only approximately 31 percent of the capacity of the container. The labels failed to bear the name and place of business of the manufacturer, packer, or distributor.

On August 7, 1943, the United States attorney for the District of Oregon filed a libel against 6 cases, each containing 12 cedar chests, 5 cases, each containing 12 mirror boxes, and 32 cartons, each containing 12 cedar chests, of candy at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about June 28, 1943, by the Sylvan Company from Chicago, Ill.; and charging that it was misbranded. Each chest or box contained a cellophane-wrapped tray of candy with a sticker label reading: "De Luxe Assortment."

The article was alleged to be misbranded in that its containers were so filled as to be misleading since the candy occupied only approximately 31 percent of the capacity of the boxes, and in that it was food in package form and failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

On August 23, 1943, L. J. Korter, Portland, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be relabeled and repacked under the supervision of the Food and Drug Administration.

5445. Misbranding of candy. U. S. v. 4 Cases and 11 Cases of Candy. Default decree of condemnation. Product ordered delivered to charitable organizations. (F. D. C. No. 10372. Sample Nos. 14497–F, 14498–F.)

A portion of this product (4 cases) consisted of a cardboard novelty box in the shape of a bomb and contained from 21 to 25 individually-wrapped candies. The remainder (11 cases) consisted of a cardboard novelty box in the shape of a bombshell and contained from 6 to 10 individually-wrapped candies, which occupied on an average about 60 percent of the container. Each package had an inset in the bottom about one-half inch deep. A portion of the product was found to be short weight. The net weight declaration was inconspicuous on both labels.

On August 7, 1943, the United States attorney for the Southern District of California filed a libel against 4 cases, each containing 60 packages, and 11 cases, each containing 144 packages, of candy at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about February 10 and March 5, 1943, by the Fascination Candy Co. from Chicago, Ill.; and charging that it was misbranded. The article was labeled in part: (Packages) "Via Air Mail to Tokio U. S. A. Aerial Bomb * * * Net Weight 6 Ozs.," or "The Victory Bomb-Shell Junior."

The article was alleged to be misbranded in that the statement of quantity of contents required by law to appear on the label was not prominently placed

thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, and in that its label failed to bear the common or usual name of the food, candy. A portion of the article (4 cases) was alleged to be misbranded further in that the statement "Net Weight 6 Ozs." was false and misleading as applied to a product that was short weight; and in that its container was so made as to be misleading since it had an inset about one-half inch deep in the bottom of the package; and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents. The remainder of the article (11 cases) was alleged to be misbranded in that its container was so made and filled as to be misleading since it had an inset about one-half inch deep in the bottom of the package and the wrapped candy occupied only about 60 percent of the capacity of the container.

On September 3, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable organizations.

5446. Misbranding of candy and toy packages. U. S. v. 35 Cartons of Candy and Toy Packages (and 2 other seizure actions against candy and toy packages). Decrees ordering destruction of portion of product and delivery of remainder to charitable institutions. (F. D. C. Nos. 10143, 10144, 10281. Sample Nos. 37338–F, 43419–F, 46334–F to 46337–F, incl.)

Some of the packages were filled with 4 paper-wrapped candy kisses and a prize which, together, occupied, in certain packages, about 20 percent of the volume and, in other packages, about one-half of the volume. The remainder contained from 1 to 9 very small pieces of candy and a prize which, together, occupied less than 10 percent of the volume of the packages.

On or about June 24 and July 20, 1943, the United States attorneys for the District of Maryland and the Western District of Missouri filed libels against the following quantities of candy and toy packages: 35 cartons, each containing 100 packages, at Kansas City, Mo., and 28 cartons and 74 cartons, each containing 100 packages, and 58, 88, and 58 cartons, each containing 80 packages, at Baltimore, Md.; alleging that the articles had been shipped on or about May 24 and June 3 and 17, 1943, from Brooklyn, N. Y., by the Novel Package Corporation; and charging that they were misbranded. The articles were labeled in part: (Packages) "Candy & Toy General Douglas MacArthur Packed For and Distributed By Pioneer Specialty Co. Brooklyn, N. Y. [or "U. S. War Planes * * * Keep 'em Flying,"]," "U. S. Navy Warships * * * Packed and Distributed By Novel Package Corp.," or "Remember Pearl Harbor Candy & Toy * * * Packed and Distributed by Candyland Company Brooklyn, N. Y."

The articles were alleged to be misbranded in that their containers were so filled as to be misleading. A portion was alleged to be misbranded further in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On October 21, 1943, no claimant having appeared for the lot at Kansas City, a decree was entered ordering it to be destroyed. On November 15, 1943, no claimant having appeared for the lots at Baltimore, judgments of condemnation were entered and they were ordered delivered to a charitable institution.

5447. Misbranding of candy-filled glass toys. U. S. v. 9 Dozen Candy-Filled Glass Toys, et al. Default decree of condemnation. Products ordered distributed to a welfare organization. (F. D. C. No. 10126. Sample No. 34104–F.)

These products were short weight.

On June 21, 1943, the United States attorney for the Western District of New York filed a libel against the following candy-filled glass toys at Buffalo, N. Y.: 9 dozen automobiles, 12 dozen battleships, 8¼ dozen busses, and 1$^{7}/_{12}$ dozen telephones, alleging that the articles had been shipped in interstate commerce on or about March 12 and May 20, 1943, by Victory Glass, Inc., Toy Division, from Jeannette, Pa.: and charging that they were misbranded. The articles were labeled in part: "Miniature Streamline Auto [or "Battleship" or "Motorbus"] * * * Contents ½ Ounce or More," or "Miniature Dial Telephone * * * Contents ¾ Ounce or More."

They were alleged to be misbranded in that the statements "Contents ½ Ounce or More" (auto, battleship, motorbus) and "Contents ¾ Ounce or More" (telephone) were false and misleading as applied to articles that were short weight;

and in that they were in package form and failed to bear labels containing an accurate statement of the quantity of the contents.

On July 22, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a welfare organization.

5448. Misbranding of candy. U. S. v. 849 Cases of Candy. Decree of condemnation. Product ordered released under bond to be made to conform with the law. (F. D. C. No. 10462. Sample No. 11547–F.)

The cartons contained 5 pieces of taffy wrapped in waxed paper with twisted ends. They were 4 inches tall and the average headspace measured 1 9/16 inches.

On August 25, 1943, the United States attorney for the Northern District of California filed a libel against 849 cases, each containing 120 cartons, of candy at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about June 14, 1943, by the United Cigar-Whelan Stores Corporation, from Brooklyn, N. Y.; and charging that it was misbranded in that its container was so filled as to be misleading since the candy occupied only about 62 percent of the volume of the carton. It was labeled in part: (Cartons) "Long Chews * * * manufactured by Fralinger's Atlantic City, N. J."

On October 21, 1943, the United Cigar-Whelan Stores Corporation, having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be made to conform with the law under the supervision of the Food and Drug Administration.

5449. Misbranding of cocoa confection. U. S. v. 3,607 Cases of a Confection labeled in part: "El Pais." Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 10687. Sample No. 39364–F.)

This product was short weight.

On September 4, 1943, the United States attorney for the Southern District of California filed a libel against 3,607 cases, each containing 50 bars, of a cocoa confection at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about July 20 and 28, 1943, by Westfeldt Brothers, from New Orleans, La.; and charging that it was misbranded. The article was labeled in part: (Bar) "El Pais Net Weight 6¼ Oz. Cocoa Confection * * * Packed by 'La Ambrosia Industrial' S. A. Havana Cuba."

The article was alleged to be misbranded in that the statement "Net Weight 6¼ Oz." was false and misleading as applied to an article that was short weight; and in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents.

On September 27, 1943, the Safeway Stores, Inc., of Los Angeles, Calif., having appeared as claimant, and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

MISCELLANEOUS

5450. Adulteration of chocolate paste. U. S. v. 250 Bags of Chocolate Paste. Decree of condemnation. Product destroyed. (F. D. C. No. 10501. Sample No. 33680–F.)

On August 25, 1943, the United States attorney for the Western District of New York filed a libel against 250 bags of chocolate paste at Buffalo, N. Y., alleging that the article had been shipped on or about June 25, 1943, by the Warfield Company, from Chicago, Ill.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of larvae, insect fragments, and insect excreta.

On October 21, 1943, judgment of condemnation was entered and thereafter the product was destroyed.

5451. Misbranding of honey. U. S. v. 8 Cases of Honey. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 10512. Sample No. 34557–F.)

This product was short weight and contained undeclared artificial flavoring.

On August 28, 1943, the United States attorney for the Southern District of Florida filed a libel against 8 cases, each containing 24 jars, of honey at Jacksonville, Fla., alleging that the article had been shipped on or about May 21, 1943, by the Tavern Fruit Juice Co., Inc., from Brooklyn, N. Y.; and charging that it was misbranded. It was labeled in part: (Jars) "'Rexley Brand' Pure

Raspberry Flavored Honey Net Weight 1 Lb. * * * Pure Honey—Flavored with Concentrated Raspberry Juice Natural Color—Natural Flavor."

It was alleged to be misbranded (1) in that the statements "Pure Raspberry * * * Flavored with Concentrated Raspberry Juices * * * Natural Flavor" were false and misleading as applied to an article containing artificial flavoring, (2) the statement "Net Weight 1 Lb." was false and misleading as applied to an article that was short weight, (3) it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents; and (4) it contained artificial flavoring and failed to bear labeling stating that fact.

On October 23, 1943, no claimant having appeared, judgment of condemnation was entered, and the product was ordered delivered to a charitable institution on condition that it should not be sold.

5452. Adulteration of molasses residuum. U. S. v. 400 Cases of an article labeled, in part, "Simulated HS–GAS." Default decree of condemnation and destruction. (F. D. C. No. 10049. Sample No. 33479–F.)

This product was diluted molasses residuum, obtained after alcoholic fermentation, containing 0.4 percent of cresol. It was sold as molasses. The cans were labeled "1 Gal. Simulated HS–GAS."

On June 4, 1943, the United States attorney for the Southern District of New York filed a libel against 400 cases of molasses residuum at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about April 19, 1943, by B. Pierce & Co., Inc., from Baltimore, Md.; and charging that it was adulterated in that it contained an added poisonous or deleterious substance, cresol, which might have rendered it injurious to health; and in that diluted molasses residuum containing cresol had been substituted in whole or in part for molasses, which the article was represented to be.

On June 23, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5453. Misbranding of powdered sugar. U. S. v. 96 Cartons of Powdered Sugar. Default decree of condemnation. Product ordered delivered to welfare organizations. (F. D. C. No. 10141. Sample No. 48325–F.)

This product was short weight.

On June 23, 1943, the United States attorney for the Southern District of Ohio filed a libel against 96 cartons, each containing 24 packages, of powdered sugar at Cincinnati, Ohio, which had been consigned on or about March 19 and April 3, 1943, alleging that the article had been shipped in interstate commerce by the National Sugar Refining Co. from Brooklyn, N. Y.; and charging that it was misbranded. The article was labeled in part: (Packages) "Jack Frost Extra-Fine Powdered Sugar * * * 1 Pound Net."

It was alleged to be misbranded in that the statement "1 Pound Net" was false and misleading as applied to an article that was short weight, and in that it was in a package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On July 26, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to welfare organizations.

DAIRY PRODUCTS

BUTTER

5454. Adulteration of butter. U. S. v. 57 Pounds of Butter. Default decree of condemnation. Product ordered sold. (F. D. C. 10238. Sample No. 32093–F.)

Analysis showed that this product contained mold.

On June 16, 1943, the United States attorney for the Western District of Kentucky filed a libel against 57 pounds of butter at Henderson, Ky., alleging that the article had been shipped on or about June 7, 1943, by the Ideal Pure Milk Co., from Evansville, Ind.; and charging that it was adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance. The article was labeled in part: (Parchment wrapper) "Ideal Brand Butter * * * Fancy Table Quality."

On November 22, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold to be mixed with other inedible grease.

5455. Adulteration of butter. U. S. v. 5 Cases of Butter. Default decree of condemnation. Product ordered sold to rendering plants. (F. D. C. No. 10337. Sample No. 41059–F.)

This product contained mold.

On July 19, 1943, the United States attorney for the Eastern District of Louisiana filed a libel against 5 cases of butter at New Orleans, La., alleging that the article had been shipped on or about June 24, 1943, by Jerpe Dairy Products Corporation, from Fayetteville, Ark.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Retail carton) "Clear Brook Creamery Butter Distributed by Wilson & Co., * * * Chicago, Ill."

On October 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold to rendering plants so that it might be manufactured into glycerine or other products for use in the war effort, provided that it was not to be used at any time for human consumption.

5456. Adulteration of butter. U. S. v. 58 Boxes (3,712 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond for reworking into butter oil. (F. D. C. No. 10342. Sample No. 38299–F.)

Analysis showed that this product was contaminated with mold.

On June 7, 1943, the United States attorney for the Western District of New York filed a libel against 58 64-pound boxes of butter at Buffalo, N. Y., alleging that the article had been shipped on or about June 2, 1943, from Chicago, Ill., by the Peter Fox Sons Co.; and charging that it was adulterated in that it consisted in whole or in part of a filthy or decomposed animal substance.

On August 6, 1943, the Peter Fox Sons Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking into butter oil, under the supervision of the Food and Drug Administration.

5457. Adulteration of butter. U. S. v. 20 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond for conversion into butter oil. (F. D. C. No. 10234. Sample No. 38158–F.)

This product contained mold.

On June 21, 1943, the United States attorney for the Northern District of Illinois filed a libel against 20 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on June 8, 1943, by the Ravenwood Creamery from Ravenwood, Mo.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed or filthy substance. The article was labeled in part: (Tracing) "Creamery Butter Distributed by Dauber Bros. * * * Chicago, Illinois."

On June 30, 1943, Dauber Bros., claimant, having admitted the facts set forth in the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for salvaging by purification and conversion into butter oil.

5458. Adulteration of butter. U. S. v. 8 Boxes and 212 Pounds and 33 Pounds of Butter. Decrees of condemnation. Product ordered disposed of for war purposes. (F. D. C. Nos. 10505, 10893. Sample Nos. 46275–F, 46286–F, 48603–F.)

Analysis showed that this product contained mold.

On August 10 and 16, 1943, the United States attorneys for the Northern District of West Virginia and the Eastern District of Kentucky filed libels against 8 boxes of butter at Newport, Ky., and 212 pounds and 33 pounds of butter at Morgantown, W. Va., alleging that the article had been shipped on or about July 16 and August 11, 1943, from Cincinnati, Ohio, by the Tri-State Butter Co.; and charging that it was adulterated in that it consisted in whole or in part of a filthy or decomposed animal substance. A portion of the article was labeled in part: (Carton) "Rich Pasture Creamery Butter." The remainder was labeled in part: (Carton) "Valley Farms Creamery Butter," or (wrapper) "Sunnydale Brand Butter."

On September 2 and 10, 1943, no claimant having appeared, judgments of condemnation were entered and a portion of the product was ordered to be disposed of for war purposes pursuant to the request of the War Production Board, and the remainder was ordered sold to a renderer for use as salvage fats.

5459. Adulteration of butter. U. S. v. 13 Cases and 45 Cases of Butter. Consent decrees of condemnation. Product ordered released under bond to be denatured or manufactured into butter oil. (F. D. C. Nos. 10151, 10299. Sample Nos. 9618–F, 41242–F.)

This product, in addition to containing mold, was also deficient in milk fat.

On June 4 and 24, 1943, the United States attorney for the Southern District of Alabama filed libels against 13 cases and 45 cases, each containing 32 pounds, of butter at Mobile, Ala., alleging that the article had been shipped in interstate commerce on or about May 25 and June 16, 1943, by Armour Creameries from Meridian, Miss.; and charging that it was adulterated. The article was labeled in part: (Carton) "Armour's Cloverbloom Butter."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance, and in that a product containing less than 80 percent by weight of milk fat had been substituted therefor.

On September 30, 1943, Armour & Co., claimant, having admitted the allegations of the libels and consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be denatured or remanufactured for butter oil, under the supervision of the Food and Drug Administration.

5460. Adulteration of butter. U. S. v. 12 Cases and 10 Cases of Butter (and 1 other seizure action against butter). Decrees of condemnation. Portions of product ordered sold for use as salvage fats, and remainder ordered released under bond to be brought into compliance with the law. (F. D. C. Nos. 10504, 10892. Sample Nos. 42191–F, 42192–F, 43551–F.)

A portion of this product was contaminated with mold and the remainder was deficient in milk fat.

On or about August 12 and September 17, 1943, the United States attorneys for the Northern District of West Virginia and the Western District of Missouri filed libels against 22 cases of butter at Clarksburg, W. Va., and 27 cubes (1,728 pounds) of butter at Kansas City, Mo., alleging that the article had been shipped on or about July 2 and August 6, 1943, from Cincinnati, Ohio, and Oklahoma City, Okla., by the Beatrice Creamery Co.; and charging that it was adulterated. Portions of the article were labeled in part: "Meadow Gold Butter."

The shipment located at Clarksburg, W. Va., was alleged to be adulterated in that it consisted in whole or in part of a filthy or decomposed animal substance. The remainder was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter.

On September 7, 1943, no claimant having appeared for the lot at Clarksburg, judgment of condemnation was entered and the product was ordered sold to a renderer for use as salvage fats. On October 27, 1943, the Beatrice Creamery Co. having appeared as claimant for the lot at Kansas City and admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration.

5461. Adulteration of butter. U. S. v. 14 Cases of Butter. Default decree of condemnation. Product ordered sold to a rendering plant. (F. D. C. No. 10344. Sample No. 41058–F.)

On July 17, 1943, the United States attorney for the Eastern District of Louisiana filed a libel against 14 cases of butter at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about July 3, 1943, from Carthage, Mo., by the Carthage Creamery Co.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: (Retail carton) "Jersey Gold * * * Creamery Butter."

On October 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold to a rendering company for manufacture into glycerine or other products to be used in the war effort.

5462. Adulteration of butter. U. S. v. 14 Cases of Butter. Consent decree of condemnation. Product ordered released under bond for reworking. (F. D. C. No. 10297. Sample No. 40882–F.)

On July 9, 1943, the United States attorney for the Eastern District of Louisiana filed a libel against 14 cases, each containing 32 1-pound prints, of butter at New Orleans, La., alleging that the article had been shipped in interstate commerce by the Fairmont Creamery Co., from Lawton, Okla., on or about June 30, 1943; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter.

On August 10, 1943, the Fairmont Creamery Co., Omaha, Nebr., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond with provision for shipment to Omaha, Nebr., for reworking into butter under the supervision of the Food and Drug Administration.

5463. Adulteration of butter. U. S. v. 24 Cases of Butter. Consent decree of condemnation. Product ordered released under bond for reworking. (F. D. C. No. 10298. Sample No. 41041–F.)

On June 11, 1943, the United States attorney for the Eastern District of Louisiana filed a libel against 24 cases, each containing 32 pounds, of butter at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about May 27, 1943, by the Sugar Creek Creamery Co., from Russellville, Ark.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: (Cartons) "Sugar Creek Butter."

On June 30, 1943, the Sugar Creek Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

5464. Adulteration of butter. U. S. v. 17 Cubes (1,071 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 10491. Sample No. 38921–F.)

On August 5, 1943, the United States attorney for the Northern District of Illinois filed a libel against 17 cubes of butter at Chicago, Ill., alleging that the article had been shipped on or about July 16, 1943, by the Hinton Community Co-operative Creamery from Hinton, Okla.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: "Creamery Butter The Peter Fox Sons Co Distributors Chicago Ill."

On October 6, 1943, the Peter Fox Sons Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be reworked under the supervision of the Food and Drug Administration.

5465. Adulteration of butter. U. S. v. 97 Boxes (3,104 pounds) of Butter. Consent decree of condemnation with provision for release for reworking. (F. D. C. No. 10232. Sample No. 45112–F.)

On or about June 30, 1943, the United States attorney for the District of New Jersey filed a libel against 97 boxes, each containing 32 1-pound prints, of butter at Jersey City, N. J., alleging that the article had been shipped in interstate commerce on or about June 4, 1943, by the Hunter-Walton Co. from New York, N. Y.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: (Prints) "Waverly Brand Creamery Butter * * * Manufactured By Waverly Butter & Egg Co. Waverly, N. Y."

On July 21, 1943, the Waverly Butter & Egg Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food & Drug Administration.

5466. Adulteration of butter. U. S. v. 30 Cartons (1,800 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond for reworking. (F. D. C. No. 10236. Sample No. 32533–F.)

On June 28, 1943, the United States attorney for the Northern District of Ohio filed a libel against 30 cartons, each containing 60 pounds, of butter at Cleveland, Ohio, alleging that the article had been shipped on or about June 12, 1943, by Lakota Farmers Cooperative Creamery Co. from Centerville, S. Dak.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: "Butter Sold By Stonehill Cry Cleveland, Ohio."

On July 13, 1943, the Stonehill Creamery Company, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be reworked under the supervision of the Food and Drug Administration.

5467. Adulteration of butter. U. S. v. 18 Cubes (1,134 pounds) of Butter. Decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 10339. Sample No. 10860–F.)

On July 15, 1943, the United States attorney for the Northern District of California filed a libel against 18 cubes of butter at San Francisco, Calif., alleging that the article was shipped in interstate commerce on or about June 29, 1943, by the Moundridge Co-op. Creamery Co. from Moundridge, Kans.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter.

On August 4, 1943, O. Casperson & Sons, San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered and the product was ordered released upon the deposit of cash collateral, conditioned that it be made to conform with the law under the direction of the Food and Drug Administration. The product was reworked to the legal standard.

5468. Adulteration of butter. U. S. v. 14 Tubs of Butter. Consent decree of condemnation. Product ordered released upon execution of bond or deposit of cash collateral, conditioned that it be reworked. (F. D. C. No. 7626. Sample No. 89645–E.)

On June 2, 1942, the United States attorney for the Southern District of New York filed a libel against 14 tubs, each containing approximately 64 pounds, of butter, at New York, N. Y., alleging that the article had been shipped on or about May 22, 1942, by the Pemberton Cooperative Creamery Co., Pemberton, Minn.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: (Tubs) "Butter S & W Waldbaum Inc * * * Distributors New York, N. Y."

On June 13, 1942, the Pemberton Cooperative Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released upon execution of a bond or deposit of cash collateral, conditioned that it be reworked so that it would comply with the law.

5469. Adulteration and misbranding of butter. U. S. v. Moundridge Cooperative Creamery Co. Plea of guilty. Fine, $25 and costs. (F. D. C. No. 10552. Sample No. 11293–F.)

On October 11, 1943, the United States attorney for the District of Kansas filed an information against the Moundridge Cooperative Creamery Co., Moundridge, Kans., alleging shipment on or about April 27, 1943, from the State of Kansas into the State of California of a quantity of butter that was adulterated and misbranded.

It was alleged to be adulterated in that a valuable constituent, milk fat, had been in part omitted therefrom, and in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

It was alleged to be misbranded in that it was in package form and did not bear a label containing the name and place of business of the manufacturer, packer, or distributor; and in that it was in package form and did not bear a label containing an accurate statement of the quantity of the contents, that is, the label on the packages bore no statement of the quantity of the contents.

On December 13, 1943, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $25 and costs.

5470. Adulteration and misbranding of butter. U. S. v. Rising Sun Creamery, Inc. Plea of guilty. Fine, $50. (F. D. C. No. 9681. Sample Nos. 31720–F, 31895–F, 31897–F, 48013–F.)

A portion of this product was short weight and a part was deficient in milk fat.

On August 24, 1943, the United States attorney for the Southern District of Indiana filed an information against the Rising Sun Creamery, Inc., Rising Sun, Ind., alleging shipment on or about November 20, 1942, and February 24, and 26 and April 21, 1943, from the State of Indiana into the State of Ohio of quantities of butter, a portion of which was adulterated and the remainder of which was misbranded. It was labeled in part: (Wrappers) "8 Oz. Net Indiana Ideal * * * Creamery Butter," or "Cottage Butter * * * ¼ Lb. Net Weight."

The shipments of "Cottage Butter" on February 26 and April 21, 1943, were alleged to be adulterated in that a valuable constituent, milk fat, had been in whole or in part omitted therefrom, and in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

The shipments of "Creamery Butter" and "Cottage Butter" on November 20, 1942, and February 24, 1943, respectively, were alleged to be misbranded (1) in

that the statements "8 Oz. Net" or "¼ Lb. Net Weight," appearing on the wrappers enclosing the prints of butter, were false and misleading since the prints contained less than the amount declared; and (2) in that they were in package form and the label on the wrappers failed to bear an accurate statement of the quantity of the contents in terms of weight.

On September 18, 1943, the defendant having entered a plea of guilty, the court imposed a fine of $50.

5471. Adulteration and misbranding of butter. U. S. v. 49 Cases of Butter (and 2 other seizure actions against butter). Decrees of condemnation. Portion of product ordered sold for conversion into soap or other technical purpose. Remainder ordered released under bond, a portion to be reworked and a portion to be repacked and relabeled. (F. D. C. Nos. 8227, 10889, 10976. Sample Nos. 1505–F, 6895–F, 9084–F, 9085–F, 41283–F, 41284–F.)

One shipment of this product contained mold and the remaining shipments were deficient in milk fat with one of such shipments also being short weight.

On or about August 4, 1942, and August 30 and September 20, 1943, the United States attorneys for the Eastern District of Michigan, the Northern District of Texas, and the Western District of Missouri filed libels against 49 30-pound cases of butter at Detroit, Mich., 281 30-pound cases and 1,704 32-pound cases of butter at Dallas, Tex., and 91 60-pound boxes of butter at Springfield, Mo., alleging that the article had been shipped in interstate commerce on or about July 28, 1942, and May 25 and June 7, 1943, by Armour & Co. from Chicago, Ill., Oklahoma City, Okla., and Winfield, Kans.; and charging that it was adulterated and that a portion was misbranded. The lot at Detroit was labeled, in part, "Goldendale Butter"; the lot at Springfield was labeled, in part, "Armour's Cloverbloom Butter," and the lot at Dallas was labeled, in part, "Butter Armour Creameries Distributors * * * Net Wt. 30 lbs. [or "Net Wt. 32 lbs."]."

The portion of the article located at Detroit was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed substance and the portions at Springfield and Dallas were alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter.

The portion of the article at Dallas was also alleged to be misbranded in that the labeling was false and misleading as applied to an article that was short weight, since the average net weight of the cases was less than the amount set forth on the label, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On September 25, 1942, judgment of condemnation was entered against the portion of the product at Detroit, and it was ordered sold for conversion into soap or other technical purposes. On September 30, 1943, and January 25, 1944, Armour & Co., claimant, having consented to the entry of decrees with respect to the remaining portions of the product, judgments of condemnation were entered and the portion of the product at Springfield was ordered released under bond for reworking under the supervision of the Food and Drug Administration, and the portion at Dallas was ordered released under bond for relabeling and repacking.

5472. Adulteration and misbranding of butter. U. S. v. 6 Cartons (192 pounds) of Butter (and 3 other seizure actions against butter). Decrees of condemnation. Portion of product ordered disposed of for salvage fat; remainder released under bond, one lot to be disposed of as animal feed, the remainder to be repacked to the declared weight. (F. D. C. Nos. 10302, 10396, 12034, 12035. Sample Nos. 42196–F, 52909–F, 79211–F, 79212–F.)

Portions of this product were found to contain mold and portions were short weight.

Between July 9, 1943, and March 16, 1944, the United States attorneys for the District of Columbia and the District of Maryland filed libels against 6 cartons of butter at Baltimore, Md., and 50 cases, 46 cartons, and 11 boxes of butter at Washington, D. C., alleging that the article had been shipped in interstate commerce within the period from on or about June 25, 1943, to February 28, 1944, by the Merchants Creamery Co. from Cincinnati, Ohio; and charging that it was adulterated and misbranded. The article was labeled in part: (Wrapper) "Forest Brook Brand Creamery Butter Packed For Kingan & Company * * * Indianapolis, Ind.," "Springfield Brand Creamery Butter," or "Rose Brand Creamery Butter One Pound Net Weight [or "One Pound Net."]."

A portion of the article seized (6 cartons and 50 cases) was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

The remainder of the article (46 cartons and 11 boxes) was alleged to be misbranded in that the statements "One Pound Net Weight" and "One Pound Net" were false and misleading as applied to an article that was short weight; and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On August 30, 1943, no claimant having appeared, judgment of condemnation was entered against the product at Baltimore, Md., and it was ordered sold to a rendering company so that it could be used for war purposes as directed by the War Production Board. On October 14, 1943, and April 17, 1944, the Merchants Creamery Company, claimant, having consented to the entry of decrees against the product at Washington, D. C., judgments of condemnation were entered and the product was ordered released under bond to have a portion converted into animal feed, and the remainder repacked under the supervision of the Food and Drug Administration.

5473. Misbranding of butter. U. S. v. 8 Cases of Butter. Default decree of condemnation. Product ordered delivered to a local hospital. (F. D. C. No. 10472. Sample No. 16046–F.)

On or about June 8, 1943, the United States attorney for the District of Nevada filed a libel against 8 cases, each containing 30 1-pound prints, of butter at Las Vegas, Nev., alleging that the article had been shipped in interstate commerce on or about May 29, 1943, by the Nelson-Ricks Creamery Co., from Salt Lake City, Utah; and charging that it was misbranded in that the prints did not contain 1 pound net as labeled; the statement "One Pound Net" being false and misleading. The article was labeled in part: (Prints) "One Pound Net When Packed Banquet Better Butter Banquet Better Foods * * * Salt Lake City Utah."

On August 3, 1943, no claimant having appeared and only one case of butter having been seized, judgment of condemnation was entered against such product and it was ordered delivered to a local hospital.

CHEESE

5474. Adulteration of cheese. U. S. v. 2 Boxes, 4 Boxes, and 3 Boxes of Cheese. Default decree ordering product destroyed or fed to animals. (F. D. C. No. 10318. Sample Nos. 16061–F, 16064–F.)

Examination of this product showed that it contained rodent-type hairs and vegetable fiber, and that a portion contained flies. Inspection of the manufacturing premises showed insanitary conditions and use of dirty milk.

On July 27, 1943, the United States attorney for the District of Utah filed a libel against 5 boxes, each containing 25 pounds, of cheese, and 4 boxes, each containing 60 pounds, of cheese, at Salt Lake City, Utah, alleging that the article was shipped in interstate commerce by the Hurst Dairy Co. from Urie, Wyo., on or about July 5 and 8, 1943; and charging that it was adulterated in that it consisted in whole or in part of filthy substances; and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

On September 25, 1943, no claimant having appeared, judgment was entered ordering the product destroyed or fed to animals.

5475. Adulteration of Cheddar cheese. U. S. v. 542 Cheddar Cheeses. Decree of condemnation. Product ordered released under bond for reconditioning. (F. D. C. No. 10376. Sample No. 10438–F.)

On August 13, 1943, the United States attorney for the Northern District of California filed a libel against 542 Cheddar cheeses at San Francisco, Calif., alleging that the article had been shipped in interstate commerce from Chicago, Ill., on or about July 10, 1943, by the National Biscuit Co.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of infestation with cheese mites well below the surface, as manifested by the presence of live mites and contamination with their debris and burrowings. The article was labeled in part: "State Brand Colored Chidders * * * Cheddar Cheese Wisconsin Factory 2115 Vat A (or others)."

On August 23, 1943, the National Biscuit Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond for reconditioning under the supervision of the Food and Drug Administration. Reconditioning was effected by cutting off and cutting out all portions showing evidence of mite infestation and denaturing the unfit portion under the supervision of the Food and Drug Administration.

5476. Adulteration of cheese. U. S. v. 3,572 Pounds and 17,000 Pounds of Romano Type Cheese. Decree of condemnation. Product ordered released under bond for reconditioning. (F. D. C. No. 10369. Sample Nos. 14378–F, 14379–F.)

On August 6, 1943, the United States attorney for the Southern District of California filed a libel against 20,572 pounds of Romano type cheese at Santa Monica, Calif., alleging that the article had been shipped in interstate commerce on or about June 10 and 20, 1943, by the Rocky Mountain Cheese Mfg. Co. from Trinidad, Colo.; and charging that it was adulterated in that it consisted in whole or in part of a filthy and decomposed substance by reason of the presence therein of slimy, moldy cheese and mites, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On August 12, 1943, Sam Konugres, claimant, doing business as Rocky Mountain Cheese Manufacturing Co., having admitted that the product contained some filthy or decomposed substance by reason of the presence of slimy or moldy cheese, judgment of condemnation was entered and the product was ordered released under bond for reconditioning under the supervision of the Food and Drug Administration. Reconditioning was effected by trimming and cutting off all unfit material and denaturing the trimmings.

5477. Adulteration of cheese. U. S. v. 3,000 Pounds of Cheese. Default decree of condemnation and destruction. (F. D. C. No. 10185. Sample No. 14377–F.)

On July 2, 1943, the United States attorney for the Southern District of California filed a libel against 3,000 pounds of cheese in unlabeled crates, boxes, and barrels at Los Angeles, Calif., alleging that the article had been shipped on or about March 17 and April 4, 1943, by L. L. Stonebraker from Trinidad, Colo.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, cheese skippers, dead and live larvae, mites, and rodent hairs; and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On September 3, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5478. Adulteration of Cheddar cheese. U. S. v. 108 Boxes of Cheddar Cheese. Consent decree of condemnation. Product ordered released under bond for disposition in compliance with the law. (F. D. C. No. 7987. Sample No. 2015–F.)

Examination of this product disclosed the presence of rodent hairs, insect fragments, and nondescript dirt. Inspection showed that it was prepared under insanitary conditions and that filthy milk was used.

On August 5, 1942, the United States attorney for the Northern District of Illinois filed a libel against 108 boxes, each containing approximately 75 pounds, of Cheddar cheese at Freeport, Ill., alleging that the article had been shipped in interstate commerce on July 26, 1942, by the Tipton Cheese Co. from Tipton, Iowa; and charging that it was adulterated. The article was labeled in part: "Tipton."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

On October 19, 1942, an order was issued transferring the case to the Southern District of Iowa. On November 30, 1942, Fred Jegerlehmer, sole owner of the Tipton Cheese Co., claimant, having filed with the court for such District a motion for a more definite and specific statement, the following order of the court which overruled such motion was entered:

DEWEY, *District Judge.* "The above entitled action came on for hearing in open court at Des Moines, Iowa, on the 21st day of November, 1942, on the intervening claimant's motion for more specific statement.

"The question of whether such an order should be entered is governed by the rules of Civil Procedure of this court and not by the Iowa law. While the court has some discretion as to whether such an order should be made, it is quite generally held by the courts that such information is only to be furnished under such an order where the party cannot obtain the information by discovery as provided in the Rules of Civil Procedure. Such information can be so obtained and the attorney for the Government advises that upon written application by letter or otherwise to him he will be glad to furnish a detailed statement of the analysis furnished to his office by the Government, but he does not care to be

bound by that analysis as conclusive in the event he is able to show other filthy substance in the article sought to be condemned.

"As the claimant can obtain the information requested, insofar as the same is in the possession of the attorneys for the Government, by the procedure authorized under Rule 33 of the Rules of Civil Procedure, and other rules of discovery, the motion for more specific statement should be overruled. The Clerk will therefore enter the following order:

"The above entitled action having come on for hearing in open court at Des Moines, Iowa, on the 21st day of November, 1942, upon a motion by the intervening claimant for more specific statement, and the court being advised, said motion is overruled and the intervening claimant, Fred Jegerlehmer, excepts."

On April 6, 1943, the claimant having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond with provision that it should not be sold or otherwise disposed of for human food, but that it could be used for animal food in compliance with the law.

5479. Adulteration of Ricotta cheese. U. S. v. 571 Pounds of Cheese. Default decree of condemnation and destruction. (F. D. C. No. 10099. Sample No. 1579–F.)

On June 19, 1943, the United States attorney for the Northern District of Illinois filed a libel against 571 pounds of cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about March 18, 1943, by the Rocky Mountain Cheese Co., from Trinidad, Colo.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, rodent hairs, hairs resembling rodent hairs, feather barbules, and plant fibres, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. It was labeled in part: "Fresh Ricotta," or "Head Cheese."

On October 11, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5480. Misbranding of Cheddar cheese. U. S. v. 3 Cheddars. Default decree of condemnation. Product ordered delivered to welfare organizations. (F. D. C. No. 9829. Sample No. 6171–F.)

On or about April 30, 1943, the United States attorney for the Western District of Missouri filed a libel against 3 cheddar cheeses, each weighing 70 pounds, at Springfield, Mo., alleging that the article had been shipped in interstate commerce on or about January 28, 1943, by the Community Creamery Co. from Greenwood, Ark.; and charging that it was misbranded.

The article was alleged to be misbranded in that it purported to be and was represented as Cheddar cheese, a food for which a definition and standard of identity has been prescribed by regulations promulgated pursuant to law, but failed to conform to such definition and standard since it contained, in its solids, less than the 50 percent milk fat required by the regulation.

On September 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to various welfare organizations.

MISCELLANEOUS

5481. Misbranding of oleomargarine. U. S. v. Vegetable Oil Products Company, Inc. Plea of not guilty. Tried to the court and a jury. Verdict of guilty on 1 count. Fine, $250. (F. D. C. No. 7761. Sample Nos. 53697–E, 93259–E, 12809–F.)

On December 14, 1942, the United States attorney for the Southern District of California filed an information against Vegetable Oil Products Company, Inc., a corporation, Wilmington, Calif., alleging shipment on or about February 23, 1942, from the State of California into the State of Utah, and on or about May 29 and July 3, 1942, from the State of California into the State of Oregon of a number of cases, each containing a number of 1-pound prints of olemargarine that was misbranded. The article was labeled in part: (Case) "Sunnybank Vegetable Vitamin A Added Oleomargarine"; (case and print wrappers) "Vegetable Fats 81%."

The article was alleged to be misbranded in that the statement "Vegetable Fats 81%," borne on the case and wrappers, was false and misleading since the article contained less than 81 percent of vegetable fat, and in that it purported to be and was represented as oleomargarine, a food for which a definition and standard of identity had been prescribed by regulations as provided by law,

but it did not conform to such definition and standard since it did not contain 80 percent of fat as required by the regulations.

On February 2, 1943, a plea of not guilty having been entered on behalf of the defendant the case came on for trial before the court and a jury. The trial continued through the third and fourth of February on which date the taking of testimony was concluded, arguments of counsel heard and the jury instructed. A verdict of guilty on count 2 involving the shipment of February 23, 1942, into Utah and not guilty on the remaining counts was returned.

5482. Misbranding of oleomargarine. U. S. v. 77 Cases of Oleomargarine. Default decree of destruction. (F. D. C. No. 7824. Sample No. 73886–E.)

On or about July 9, 1942, the United States attorney for the Western District of Missouri filed a libel against 77 cases, each containing 12 cartons, of oleomargarine at Kansas City, Mo., alleging that the article had been shipped on or about June 2, 1942, in interstate commerce from Sherman, Tex., by the Interstate Cotton Oil Refining Co.; and charging that it was misbranded. The article was labeled in part: (Carton) "Dalewood Vegetable Oleomargarine * * * Meadolake Foods, Inc. Sherman, Texas," and (printed slip enclosed in carton) "Contains per pound not less than 9000 U.S.P. Units Vitamin A, 1000 U.S.P. Units Vitamin D. Two ounces of this food supply 28% of the minimum adult daily requirement for Vitamin A, and 31% of the same requirement for Vitamin D."

The article was alleged to be misbranded (1) in that it purported to be oleomargarine, a food for which a definition and standard of identity had been prescribed by regulation, but it failed to conform to such definition and standard since it contained less than 80 percent fat; and (2) in that it purported to be and was represented for special dietary uses and its label did not bear such information concerning its vitamin, mineral and other dietary properties as has been determined to be and by regulations prescribed as necessary in order to inform fully purchasers as to its value for such uses, since the printed slip enclosed in the carton represented the article for special dietary uses and its outside container or wrapper did not bear a statement of the proportion of the mimimum daily requirement for vitamin A and vitamin D supplied thereby.

On October 3, 1942, no claimant having appeared, it was ordered that the product be destroyed. Destruction was effected through the distribution of the product to charitable institutions.

5483. Adulteration of evaporated milk. U. S. v. 222 Barrels of Evaporated Milk. Default decree of condemnation. Product ordered sold by marshal on condition that it should not be disposed of in violation of law. (F. D. C. No. 9801. Sample Nos. 6384–F, 6385–F, 6389–F, 6390–F.)

This product had been damaged by fire and water, and examination showed that it was undergoing progressive decomposition.

On April 13, 1943, the United States attorney for the Eastern District of Missouri filed a libel against 222 barrels of evaporated milk at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about November 21, 1942, by Armour & Co. from Stoughton, Wis.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Armour's * * * Evaporated Milk."

On July 23, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold by the marshal on condition that the purchaser adopt such safeguards as might be directed by the Federal Security Agency against the product being disposed of in violation of the law. The swelled and rusted cans were sorted out and destroyed.

EGGS

5484. Adulteration of dried eggs. U. S. v. 1 Barrel of Dried Eggs. Decree of condemnation and destruction. (F. D. C. No. 10444. Sample No. 42280–F.)

On August 20, 1943, the United States attorney for the Southern District of Ohio filed a libel against 1 barrel of dried eggs at Cincinnati, Ohio, which had been consigned on or about October 6, 1942, alleging that the article had been shipped by F. M. Stamper from St. Louis, Mo.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Spray Dried Whole Eggs."

On October 8, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5485. Adulteration of dried whole eggs. U. S. v. 20 Barrels of Dried Whole Eggs. Consent decree of condemnation. Product ordered released under bond conditioned that the unfit portion be destroyed or denatured. (F. D. C. No. 9098. Sample No. 17784–F.)

On December 30, 1942, the United States attorney for the Southern District of New York filed a libel against 20 barrels of dried whole eggs at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 28, 1942, by the Joe Lowe Corporation from San Antonio, Tex.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance, decomposed eggs.

On February 15, 1943, the Joe Lowe Corporation, claimant, filed an answer denying that the product was adulterated as alleged in the libel, and on April 7, 1943, filed a list of 31 interrogatories. The Government having filed a notice of objection to certain interrogatories and subsequently a notice of objection to all interrogatories, on May 26, 1943, the court delivered the following opinion:

CLANCY, *District Judge:* "Libellant's objection to the interrogatories propounded by the claimant are sustained because the interrogatories are not aimed to secure an amplification of the libel or to procure evidence in support of claimant's defense."

On September 11, 1943, the claimant having withdrawn its answer theretofore filed, and having admitted the allegations of this libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the fit portion from the unfit portion and destruction or denaturing of the unfit portion, under the supervision of the Food and Drug Administration.

5486. Adulteration of dried whole eggs. U. S. v. 162 Barrels of Dried Whole Eggs. Consent decree of condemnation. Product ordered released under bond for denaturing. (F. D. C. No. 10025. Sample No. 6245–F.)

On June 10, 1943, the United States attorney for the Southern District of Iowa filed a libel against 162 barrels, each containing 165 pounds, of dried whole eggs at Des Moines, Iowa, alleging that the article was introduced into and was in interstate commerce by reason of the following facts: That Priebe & Sons, Inc., Chicago, Ill., as vendor, made a series of three contracts within the period from on or about June 25, 1942, through July 30, 1942, with the Federal Surplus Commodities Corporation, as vendee, for the lease-lend export sale of 1,830,000 pounds of spray dried whole eggs; that pursuant to the terms of the contract, the vendor, through its agent, the Des Moines Cooperative Dairy of Des Moines, Iowa, which manufactured the dried eggs for the vendor, segregated and identified the eggs in 162 barrels, submitted representative samples thereof to the vendee for analysis, and tendered the said barrels to the vendee for delivery; that by the terms of the contract with respect to goods which were found to be acceptable to the vendee as a result of analysis, certificates of inspection were to be issued by the vendee to the vendor with delivery instructions; that the goods which were found to be unacceptable were to be rejected; and that in this instance the barrels above referred to were rejected.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

On October 15, 1943, Priebe & Sons, Inc., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for denaturing under the supervision of the Food and Drug Administration.

5487. Adulteration of frozen whole eggs. U. S. v. 50 Cartons of Frozen Whole Eggs. Consent decree of condemnation and destruction. (F. D. C. No. 10164. Sample No. 45361–F.)

On June 30, 1943, the United States attorney for the Eastern District of New York filed a libel against 50 cartons, each containing 30 pounds, of frozen whole eggs at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about May 11, 1943, by Ralph Hurst & Co. from Kansas City, Mo.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Carton stencilled) "Oakhurst Frozen Whole Eggs."

On October 20, 1943, Ralph Hurst & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

5488. Adulteration of frozen eggs. U. S. v. 620 Boxes and Cans and 107 Boxes of Frozen Eggs. Product ordered released under bond for examination. Decrees ordering condemnation and destruction of unfit portion and release of good portion. (F. D. C. Nos. 10349, 10352. Sample Nos. 48345–F, 48346–F.)

On July 30 and August 3, 1943, the United States attorney for the Western District of Kentucky filed libels against a total of 727 boxes and cans of frozen eggs at Louisville, Ky., alleging that the article had been shipped in interstate commerce on or about May 12 and 26, 1943, from Greenville, Ohio, by Sherman White & Co.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "S. W. Brand Frozen Eggs."

On August 10, 1943, the product was ordered released under bond for examination by Sherman White & Co. who, as claimant, had previously admitted the allegations of the libels. On September 25, 1943, judgment of condemnation and destruction of the unfit portion was entered, and the good portion was ordered released to the claimant.

5489. Adulteration of frozen whole eggs. U. S. v. 25 Cans of Frozen Whole Eggs. Tried to the court. Judgment finding 11 cans adulterated and ordering them destroyed. Remainder adjudged not adulterated and ordered released to claimant. (F. D. C. No. 8159. Sample No. 13207–F.)

On August 19, 1942, the United States attorney for the Western District of Washington filed a libel against 25 cans, each containing 30 pounds, of frozen whole eggs, at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about August 4, 1942, by the Portland Egg & Poultry Co. from Portland, Oreg.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On October 2, 1943, Teresa Fosati, doing business as Portland Egg and Poultry Co., having appeared as claimant and having denied the allegation as to the adulteration of the product, the case was tried by the court and, upon a finding that 11 cans were adulterated and the remainder not adulterated, was a decree entered providing for the condemnation and destruction of 11 of the cans and release of the remaining cans to the claimant.

5490. Adulteration and misbranding of frozen eggs and shell eggs. U. S. v. 550 Cartons of Frozen Eggs (and 4 additional seizure actions against frozen eggs and shell eggs.) Consent decrees of condemnation. Products ordered released under bond for segregation and relabeling of the good portion and destruction of the unfit portion. (F. D. C. Nos. 10309, 11201, 11537, 11823, 11864. Sample Nos. 41065–F, 47302–F, 51284–F to 51286–F, incl., 66139–F.)

Between July 24, 1943, and February 21, 1944, the United States attorneys for the Eastern District of Louisiana, the Western District of Tennessee, the Southern District of New York, and the District of Massachusetts filed libels against 84 cases of shell eggs at New York, N. Y., and 550 cartons of frozen eggs at New Orleans, La., 628 cartons of frozen eggs, at Memphis, Tenn., and a total of 1,075 cartons of frozen eggs at Boston, Mass., alleging that the article had been shipped in interstate commerce within the period from on or about January 16 to October 26, 1943 by Wilson & Co., Inc., from Abilene and Amarillo, Tex., Oklahoma City, Okla., Wichita, Kans., and Reinbeck, Iowa; and charging that they were adulterated and that 1 lot of frozen eggs was misbranded.

The articles were alleged to be adulterated in that they consisted in whole or in part of decomposed substances.

The frozen eggs at New Orleans, La., were alleged to be misbranded in that the statement "USDA Packed Under Government Supervision," appearing in the label, was misleading, since such statement represented and suggested that the article was packed under Government supervision, whereas such supervision was limited to the assurance that the article would not be included with frozen eggs set aside for Government use.

On January 18, 1944, Reiss & Yanover Banking Corp., Rego Park, Long Island, N. Y., claimant for the seizure at New York, N. Y., and on September 28, 1943, December 14, 1943, and March 9, 1944, Wilson & Co., Inc., Chicago, Ill., claimant for the other seizures, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond, conditioned upon the segregation and the destruction of the unfit portion and the relabeling of the good portion of the lot at New Orleans, La.

FEED

5491. Adulteration and misbranding of dog food. U. S. v. 7 Cases of "Dr. Beere's Dessert For Dogs." Default decree of condemnation and destruction. (F. D. C. No. 10348. Sample No. 20646–F.)

This product contained mold, and the ingredient statement on the package appeared in small print on the two side panels. Its labeling suggested that it had some unique property in supplying a dog with energy, and gave an exaggerated and unwarranted impression of the nutritional value of the article.

On July 31, 1943, the United States attorney for the District of Massachusetts filed a libel against 7 cases, each containing 12 display cartons of 6 packages each, of dessert for dogs, at Worcester, Mass., alleging that the article had been shipped in interstate commerce on or about April 13, 1943, by J. R. Smith Sales Co., Inc., from Tenafly, N. J.; and charging that it was adulterated and misbranded. The article was labeled in part: (Packages) "Rx Dr. Beere's Prescribed Brand * * * Charge Dessert For Dogs Food Supplement * * * Manufactured for The Canine Vita Candy Co., Inc., 60 Hudson St., New York."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

It was alleged to be misbranded (1) in that the statement on the package "Charge contains dextrose, an easily digested energy food, well known in the treatment of animals" was misleading in that it suggested that dextrose has some unique property in supplying a dog with energy and that the rate with which it is digested is nutritionally significant, whereas dextrose is of no greater value as a source of energy than other carbohydrates for the normal dog; the rate or ease of digestibility is of no significance, and dextrose has no particular value as a treatment for animals; (2) in that the statements on the package "Charge is a health promoting food supplement * * * dogs who benefit from its continued use" were misleading since they gave an exaggerated and unwarranted impression of the nutritional value of the article; and (3) in that the statement of ingredients was not prominently placed on the label with such conspicuousness (as compared with other words, statements, and designs in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

On September 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5492. Misbranding of dried beet pulp. U. S. v. Paulding Sugar Co. Plea of nolo contendere. Fine, $100 and costs. (F. D. C. No. 9693. Sample No. 35116–F.)

This product was short weight.

On August 25, 1943, the United States attorney for the Northern District of Ohio filed an information against the Paulding Sugar Co., a corporation, at Paulding, Ohio, alleging shipment on or about January 14, 1943, from the State of Ohio into the State of Georgia of a quantity of dried beet pulp that was misbranded. The article was labeled in part: (Tag) "100 Lbs. Net Dried Beet Pulp."

It was alleged to be misbranded (1) in that the statement "100 Lbs. Net," was false and misleading, since the bags did not contain 100 pounds of dried beet pulp but contained a smaller amount; and (2) in that it was in package form and did not bear a label containing an accurate statement of the quantity of the contents.

On October 11, 1943, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of $100 and costs.

FISH AND SHELLFISH

5493. Adulteration of frozen porgies. U. S. v. 91 Boxes of Frozen Porgies. Default decree of condemnation and destruction. (F. D. C. No. 10347. Sample No. 35166–F.)

On August 2, 1943, the United States attorney for the Northern District of Georgia filed a libel against 91 boxes, each containing 100 pounds, of frozen porgies at Atlanta, Ga., alleging that the article had been shipped on or about April 26, 1943, by the Cold Spring Fish & Supply Co., Inc., from Cape May, N. J.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On August 25, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. The product was delivered to a U. S. penitentiary and disposed of as fertilizer.

5494. Adulteration of frozen fish. U. S. v. 193 Cartons of a product labeled "dressed Croakers," and 37 boxes of Unlabeled Fish. Default decree of condemnation. Product ordered sold for manufacture into fertilizer, or destroyed. (F. D. C. No. 10525. Sample No. 25668–F.)

On September 1, 1943, the United States attorney for the Northern District of Alabama filed a libel against 193 15-pound cartons of croakers and 37 unlabeled boxes containing about 4,995 pounds of fish at Birmingham, Ala., alleging that the article had been shipped in interstate commerce on or about July 29, 1943, from New Orleans, La., for the account of Irvington Fish and Oyster Co., Inc., Irvington, Va.; and charging that it was adulterated in that it consisted in whole or in part of decomposed animal substance.

On October 23, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold to be manufactured into fertilizer, or destroyed.

5495. Adulteration of frozen fish. U. S. v. 84 Boxes of Dressed Mullets and 743 Cases of Mullet Fillets. Decrees of condemnation. Portion of product ordered destroyed and remainder ordered released under bond, conditioned that it be made to conform with the law. (F. D. C. Nos. 10168, 10359. Sample Nos. 657–F, 10899–F, 38427–F.)

On July 3 and August 4, 1943, the United States attorneys for the Northern District of Illinois and the Northern District of California filed libels against 84 boxes of dressed mullets at Chicago, Ill., and 743 cases of mullet fillets at San Francisco, Calif., alleging that the articles had been shipped in interstate commerce on or about May 27 and July 7, 1943, from Winnipeg, Manitoba, Canada, by the Viking Fisheries, Ltd.; and charging that they were adulterated in that they consisted in whole or in part of decomposed substances.

On September 17, 1943, no claimant having appeared for the lot at Chicago, Ill., judgment of condemnation was entered and the product was ordered destroyed. On October 4, 1943, A. Paladini, Inc., San Francisco, Calif., having appeared as claimant for the lot at San Francisco, Calif., judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be made to conform with the law under the supervision of the Food and Drug Administration.

5496. Adulteration of ocean pout fillets, mullet fillets, and herring. U. S. v. 7 Boxes of Pout Fillets (and 5 additional seizure actions against frozen fish). Decrees of condemnation. Five of the lots ordered destroyed; remaining lot ordered returned to consignor for salvage purposes. (F. D. C. Nos. 10105, 10106, 10160, 10189, 11576, 11618. Sample Nos. 658–F, 1746–F, 1747–F, 41235–F, 41320–F, 49158–F, 67271–F.)

The ocean pout fillets were parasitized and diseased. The mullet fillets were in part decomposed, and the herring were parasitized.

Between June 18, 1943, and January 13, 1944, the United States attorneys for the Northern District of Illinois, the Eastern District of Louisiana, the Northern District of Mississippi, and the Southern District of Ohio filed libels against 7 boxes of pout fillets and 236 boxes of mullet fillets at Chicago, Ill., 468 cartons of ocean pout at New Orleans, La., 693 cartons and 238 boxes of mullet fillets at Camp McCain, Miss., 3 boxes of herring at Cincinnati, Ohio, and 5 boxes of herring at Norwood, Ohio, which had been consigned within the period from on or about June 4, 1943, to January 3, 1944. It was alleged in the libels that the articles had been shipped in interstate commerce from New Bedford, Mass., Chicago, Ill., and Winnipeg, Canada, by the Morris Fisheries, Inc., and that they were adulterated. Portions of the article were labeled in part: "Ocean Pout Fillets * * * Finest Fillet Co. New Bedford, Mass.," or "Mullet * * * Fillets Product of Canada." The remainder of the product was unlabeled.

The ocean pout was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, parasitized and diseased fish, and that it was in whole or in part the product of a diseased animal. The mullet fillets were alleged to be adulterated in that they consisted in whole or in part of decomposed substances. The herring was alleged to be adulterated in that it consisted in whole or in part of filthy substances by reason of the presence of parasitic worms.

On July 12, 1943, the Morris Fisheries, Inc., having appeared as claimant for the lot located at Camp McCain, Miss., judgment of condemnation was entered and the product was ordered released under bond for reshipment to Winnipeg, Canada, for salvage. On July 23, September 17, and October 7, 1943, and January 4, 1944, no claimant having appeared for the remaining lots, judgments of condemnation were entered and they were ordered destroyed.

5497. Adulteration of frozen ocean pout fillets. U. S. v. 499 Boxes of Ocean Pout Fillets. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of the unfit portion. (F. D. C. No. 10125. Sample Nos. 56541–F, 56561–F.)

On June 22, 1943, the United States attorney for the Southern District of New York filed a libel against 499 boxes of ocean pout fillets at Bronx, New York, alleging that the article had been shipped on or about June 7, 1943, by the New Bedford Fillet Co., New Bedford, Mass.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, parasitized and diseased fish, and in that it was in whole or in part the product of a diseased animal.

On August 4, 1943, Leo Allen, doing business at the New Bedford Fillet Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion.

5498. Misbranding of canned salmon. U. S. v. Whitney and Company, and Elizer Caraco (E. Caraco). Pleas of nolo contendere. Fines, $400 and costs. (F. D. C. No. 7280. Sample No. 58659–E.)

On September 1, 1942, the United States attorney for the Western District of Washington filed an information against Whitney and Company, a corporation, and Elizer Caraco, trading as E. Caraco, Seattle, Wash., alleging shipment in interstate commerce on or about September 26, 1941, from the State of Washington into the State of Minnesota, of a quantity of canned salmon that was misbranded. The article was labeled in part: (Cans) "Farbest * * * Select Salmon * * * Packed. * * * For Farwest Fisheries Inc. Seattle."

It was alleged to be misbranded in that the statement "Select Salmon Natural Red Color and Oil" and the design of a cut of salmon on a plate showing the red color on the exposed surface of the meat, displayed upon the can label, were false and misleading since they represented and suggested that the article consisted of a select grade of salmon of the species known as red salmon, whereas it consisted of a low grade salmon of a different species, namely, King salmon; and in that its containers were so filled as to be misleading, since the average fill of the containers was only 87.71 percent of the capacity.

On January 11, 1943, pleas of nolo contendere having been entered by the defendants, the court sentenced each defendant to pay a fine of $200, and one-half of the costs.

5499. Adulteration and misbranding of canned shrimp and adulteration of canned Oceanburger. U. S. v. The Nomis Corporation. Plea of guilty. Fine, $500 on count 1; sentence suspended on counts 2 and 3. (F. D. C. No. 7195. Sample Nos. 59492–E, 59493–E, 59496–E.)

On October 28, 1942, the United States attorney for the Southern District of Florida filed an information against the Nomis Corporation at Jacksonville, Fla., alleging shipment on or about November 5, 1941, from the State of Florida into the State of Virginia of a quantity of canned shrimp that was adulterated and misbranded and canned oceanburger that was adulterated. The articles were labeled in part: "Penguin Brand Wet Packed Drained Weight 5¾ Ozs. Medium Shrimp," or "Penguin Brand Oceanburger."

The canned shrimp was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance. The canned Oceanburger was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance by reason of the fact that it was underprocessed and was undergoing progressive spoilage.

The canned shrimp was alleged to be misbranded in that the statement "Drained Weight 5¾ Ozs.," appearing on the label, was false and misleading since the cans did not contain 5¾ ounces drained weight of shrimp but did contain a smaller amount; and in that it was food in package form and its label failed to bear an accurate statement of the quantity of the contents.

On October 21, 1943, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $500 on count 1, which charged adulteration of the canned shrimp, and suspended imposition of sentence on the remaining 2 counts.

5500. Adulteration of cooked peeled shrimp. U. S. v. 9 Barrels and 30 Barrels of Cooked Peeled Shrimp. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of unfit portion. (F. D. C. Nos. 10508, 10509. Sample No. 29840–F.)

On August 27, 1943, the United States attorney for the Northern District of California filed a libel against 39 barrels, each containing 17 or 18 5-pound

cartons, of cooked peeled shrimp at Oakland, Calif., alleging that the article had been shipped in interstate commerce from New Orleans, La., on or about August 14, 1943, by the Burgess Canning Co.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Cartons) "Ho-Ma Brand Cooked Peeled Shrimp * * * Packed By Morgan City Packing Co. Houma, La."

On October 12, 1943, the Railway Express Agency, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion.

5501. Adulteration of frozen shrimp. U. S. v. 12 Boxes and 21 Cases of Frozen Shrimp (and 2 other seizure actions against frozen shrimp). Default decree of condemnation and destruction as to a portion of product, and consent decrees of forfeiture as to remainder of product with provision for its release under bond. (F. D. C. Nos. 10104, 10753, 10834. Sample Nos. 38423–F, 38426–F, 41123–F, 41128–F.)

On or about June 22, September 17, and October 21, 1943, the United States attorneys for the Northern District of Illinois and the Northern District of Texas filed libels against 12 boxes and 21 cases of frozen shrimp at Chicago, Ill., and 466 cases and 6,819 boxes of frozen shrimp at Dallas, Tex., alleging that the article had been shipped in interstate commerce within the period from on or about May 15 to September 6, 1943, by A. N. Cheramie from Morgan City, La.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. Portions of the article were labeled in part: (12 boxes) "Shrimp * * * Distributed by Western Shelfish Company, Inc., Aransas Pass Texas," or (466 cases) "Queen of the Gulf Shrimp."

On October 11, 1943, no claimant having appeared for the lot at Chicago, Ill., judgment of condemnation was entered and the product was ordered destroyed. On January 31, 1943, Morris Fisheries, Inc., Chicago, Ill., claimant, having admitted the facts of the libels against the product at Dallas, Tex., and consented to the entry of decrees, judgments of forfeiture were entered with provisions for the release of the product under bond, conditioned upon the segregation of the good portion and the destruction of the labeling and designation for sale or use as fish bait of the unfit portion, under the supervision of the Food and Drug Administration.

5502. Adulteration of frozen clams. U. S. v. 2,087 Cases of Frozen Clams. Decree of condemnation. Product ordered released under bond to be disposed of in compliance with the law. (F. D. C. No. 10285. Sample Nos. 15176–F, 15177–F.)

On or about July 19, 1943, the United States attorney for the Southern District of California filed a libel against 2,087 cases, each containing 4 5-pound boxes, of frozen clams at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about June 18, 1943, by the Gorton-Pew Fisheries Co., Ltd., from Gloucester, Mass.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance by reason of the presence therein of decomposed clams. The article was labeled in part: (Box) "Gorton's Famous Seafoods * * * Clams."

On August 9, 1943, Gorton-Pew Fisheries Co., Ltd., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reconditioning so that it would conform to the standards required under the law. The unfit portion was thereafter segregated and delivered to a State agency for use as fish food.

5503. Adulteration of crab meat. U. S. v. 100 Cans of Crab Meat. Default decree of condemnation and destruction. (F. D. C. No. 7951. Sample No. 24807–F.)

Examination of this product showed the presence of *Escherichia coli*, indicating fecal pollution.

On July 18, 1942, the United States attorney for the District of Columbia filed a libel against 100 1–pound cans of crab meat at Washington, D. C., alleging that the article had been shipped on July 16, 1942, by Harrison & Jarboe Seafood Co. from St. Michaels, Md.; and charging that it was adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed substance, and in that it had been prepared and packed under insanitary conditions whereby it had become contaminated with filth and had been rendered injurious to health.

On August 6, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5504. Adulteration of canned oysters. U. S. v. 60 Cases and 93 Cases of Canned Oysters. Decree of condemnation. Product ordered released under bond for reconditioning. (F. D. C. No. 10717. Sample No. 11540–F.)

On September 10, 1943, the United States attorney for the Northern District of California filed a libel against 60 cases, each containing 49 cans, and 93 cases, each containing 24 cans, of oysters at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about May 26, 1943, by the Seacoast Packing Co., from New Orleans, La.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance by reason of the presence therein of decomposed oysters. The article was labeled in part: (Cans) "Dunbar Delicious Oysters."

On September 27, 1943, Dunbar-Dukate Co., of New Orleans, La., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond for reconditioning under the supervision of the Food and Drug Administration. The product was sorted according to codes and the portion containing decomposed oysters was destroyed.

5505. Adulteration of canned rock lobster. U. S. v. 700 Cases of Canned Rock Lobster. Consent decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10246. Sample No. 42445–F.)

Examination showed that this article was underprocessed and in part decomposed.

On July 17, 1943, the United States attorney for the Western District of Washington filed a libel against 700 cases, each containing 48 cans, of rock lobster at Seattle, Wash., alleging that the article had been shipped from Miami, Fla., on or about February 24, 1943, by the Apte Brokerage Co.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Cans) "Cuban Star * * * Natural Fancy Rock Lobster * * * Product of Cuba."

On September 17, 1943, Safeway Stores, Inc., a Maryland corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration. The swells, springers, and deteriorated cases were segregated and destroyed.

FRUITS AND VEGETABLES

CANNED FRUIT

5506. Adulteration of canned blackberries. U. S. v. 1,260 Cases, 1,500 Cases, and 861 Cases of Canned Blackberries. Default decree of condemnation and destruction. (F. D. C. Nos. 10121, 10429, 10430. Sample Nos. 3189–F, 19206–F, 20652–F.)

On June 22 and August 19, 1943, the United States attorneys for the District of Nebraska and the District of Massachusetts filed libels against 1,260 cases at Omaha, Nebr., and 1,500 cases and 861 cases at Lawrence and Fort Devens, Mass., respectively, each containing 6 cans of blackberries, alleging that the articles had been shipped on or about December 10, 1942, and January 23, 1943, by the Mt. Airy Canning Co. from Mt. Airy, N. C.: and charging that it was adulterated in that a portion consisted in whole or in part of decomposed substances, rotten and moldy berries, and in that the remainder consisted in whole or in part of a filthy and decomposed substance, larvae and insects and moldy berries. The article was labeled in part: (Cans) "Carolina Beauty Blackberries."

On July 12 and November 22, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5507. Misbranding of canned peaches. U. S. v. 327 Cases of Canned Peaches. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 10268. Sample No. 11094–F.)

On July 15, 1943, the United States attorney for the Western District of Arkansas filed a libel against 327 cases, each containing 12 jars, of canned peaches at Fayetteville, Ark., alleging that the article, which had been consigned by Rey Chatfield, had been shipped in interstate commerce on or about June 11, 1943, from San Francisco, Calif.; and charging that it was misbranded. The article

was labeled in part: (Jars) "Dewkist Brand Fancy Tree Ripened Halves Yellow Freestone Peaches. Contents 1 Lb. 13 Oz. Packed by Washington Packers, Inc. Sumner, Washington."

The article was alleged to be misbranded in that the statement "Contents 1 Lb. 13 Oz." was false and misleading since the article was short weight; in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents; and in that the article purported to be and was represented as food for which a definition and standard of identity had been prescribed by regulations and its label failed to bear, as required by the regulations, the name of the optional packing medium present in such food, "Heavy Sirup."

On November 15, 1943, the Ozark Grocer Co., Fayetteville, Ark., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5508. Misbranding of canned peaches. U. S. v. 87 Cases of Peaches. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 10524. Sample No. 43112–F.)

On September 3, 1943, the United States attorney for the District of Oregon filed a libel against 87 cases, each containing 24 cans, of peaches at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about July 19, 1943, by the A. Magnano Co., from Seattle, Wash.; and charging that it was misbranded. It was labeled in part: (Cans) "Valamont Brand Tree-Ripened Halves Yellow Freestone Elberta Peaches * * * Packed by National Fruit Canning Co., Seattle, Wash."

The article was alleged to be misbranded in that it purported to be and was represented as food for which a definition and standard of identity had been prescribed by regulations, and its label failed to bear, as the regulations require, the name of the optional packing medium present in such food, "Heavy Sirup."

On October 2, 1943, the National Fruit Canning Company, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled under supervision of the Food and Drug Administration.

DRIED FRUIT

5509. Adulteration of dried black cherries. U. S. v. 125 Boxes and 500 Boxes of Dried Black Cherries, Unpitted. Decree of condemnation. Product ordered destroyed. (F. D. C. No. 8673. Sample Nos. 18846–F, 18847–F.)

On November 4, 1942, the United States attorney for the Eastern District of New York filed a libel against 625 25-pound boxes of dried black cherries, unpitted, at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about September 15, 1942, by the Springbrook Packing Co., Springbrook, Oreg.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed and filthy substance, decomposed cherries and rodent hairs, insects, insect fragments, and mites. The article was labeled in part: (Box) "Dried Black Cherries Unpitted West Coast Fruit Co. Portland Ore."

On October 30, 1943, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

5510. Adulteration of dried currants. U. S. v. 16 Cases of Dried Currants. Default decree of condemnation. Product ordered delivered to a public institution for use as animal feed. (F. D. C. No. 10374. Sample No. 34554–F.)

On or about August 11, 1943, the United States attorney for the Southern District of Florida filed a libel against 16 cases, each containing 72 packages, of dried currants at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce from Locans, Calif., by the Bonner Packing Co., on or about November 16, 1942; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of weevils, larvae, and pupae. The article was labeled in part: (Package) "Dubon Brand Selected Washed and Cleaned Currants."

On September 21, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On September 24, 1943, the judgment was amended to provide for the delivery of the product to a public institution for use as animal feed.

5511. Adulteration of raisins. U. S. v. 85 Cartons of Raisins. Default decree of condemnation and destruction. (F. D. C. No. 10193. Sample No. 20108–F.)

On July 6, 1943, the United States attorney for the District of Massachusetts filed a libel against 85 cartons of raisins at Watertown, Mass., alleging that the article had been shipped in interstate commerce on or about February 23, 1943, by Diebert Bros. & Snyder from Biola, Calif.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, insects, maggots, and cocoons. The article was labeled in part: (Cartons) "Diebert's D. B. Brand Midget Thompson Seedless Raisins."

On September 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. Destruction was effected by delivery to an individual for consumption by hogs.

FRESH FRUIT

5512. Adulteration of blueberries. U. S. v. 20 Crates of Blueberries. Default decree of condemnation and destruction. (F. D. C. No. 8127. Sample No. 17922–F.)

This product was infested with maggots.

On July 29, 1942, the United States attorney for the Southern District of New York filed a libel against 20 crates, each containing approximately 24 quarts, of blueberries at New York, N. Y., alleging that the article had been shipped on or about July 25, 1942, by A. Clark from Jessup, Pa.; and charging that it was adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance.

On August 14, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FROZEN FRUIT

5513. Adulteration of strawberries. U. S. v. Cascade Frozen Foods, Inc. Plea of guilty. Fine, $200 on count 1, and $250 and costs on count 2. (F. D. C. No. 9636. Sample Nos. 14919–F, 14924–F, 14925–F, 14944–F, 14946–F.)

This product consisted in part of moldy and decomposed berries.

On August 28, 1943, the United States attorney for the Western District of Washington filed an information against the Cascade Frozen Foods, Inc., Seattle, Wash., alleging that on or about July 8 and October 8, 1942, the defendant introduced and delivered and caused to be introduced and delivered for introduction into interstate commerce from the State of Washington into the State of California quantities of frozen strawberries that were adulterated in that they consisted in whole or in part of decomposed substances.

On September 17, 1943, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $200 on the first count of the information and $250 and costs on the second count.

5514. Adulteration of strawberries. U. S. v. 14 Barrels of Strawberries. Tried to the court. Judgment ordering portion of product delivered to claimant and remainder destroyed. (F. D. C. No. 9851. Sample No. 14347–F.)

On April 21, 1943, the United States attorney for the Southern District of California filed a libel against 14 barrels, each barrel containing 440 pounds, of frozen strawberries, at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about March 16, 1943, by the Tacoma Ice Co., from Tacoma, Wash.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance, moldy or rotten berries. The article was labeled in part: "S. O. Marshall Strawbys * * * R. I. MacLaughlin & Co. Puyallup, Wn."

On October 1, 1943, Dixie Preserves, Ltd., of Los Angeles, Calif., having appeared as claimant and having denied the allegations of the libel, trial was had before the court. Evidence having been introduced on behalf of the Government and the claimant and the case having been argued, the court found that the product in 5 of the variously numbered barrels was unfit for human consumption and ordered that it be destroyed and that the remainder be released to the claimant.

5515. Adulteration of frozen strawberries. U. S. v. 60 Barrels of Frozen Strawberries. Decree of condemnation. Product ordered released upon deposit of cash collateral, conditioned upon segregation and destruction of unfit portion. (F. D. C. No. 8908. Sample No. 19336–F.)

Examination of this product showed the presence of moldy and decomposed berries.

On November 23, 1942, the United States attorney for the District of Massachusetts filed a libel against 60 barrels, each containing 50 gallons, of frozen strawberries at Boston, Mass., alleging that the article had been shipped by the Cloverdale Cooperative Berry Association from Tacoma, Wash., on or about July 31, 1942; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On May 6, 1943, the Cloverdale Cooperative Berry Association, Kalama, Wash., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released upon deposit of cash collateral, conditioned upon the segregation and destruction of the unfit portion under the supervision of the Food and Drug Administration.

5516. Adulteration of frozen red raspberries. U. S. v. Frigid Food Products, Inc. Plea of guilty. Fine, $2,100. (F. D. C. No. 9634. Sample Nos. 89756–E, 89757–E, 1819–F, 1851–F, 1853–F, 1854–F, 1871–F.)

On June 7, 1943, the United States attorney for the Eastern District of Michigan filed an information against the Frigid Food Products, Inc., Detroit, Mich., alleging shipment on or about July 5, 1941, from the State of Michigan into the State of New York, and on or about July 17, 24 and 30 and August 4, 1942, from the State of Michigan into the State of Illinois of quantities of frozen red raspberries which were adulterated. The portion of the article shipped to New York on or about July 5, 1941, was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance. The remainder was alleged to be adulterated in that water had been substituted in part for red raspberries, which the product was represented to be; and in that water had been added thereto so as to increase its bulk or weight and reduce its quality.

On August 24, 1943, the defendant was arraigned and entered a plea of guilty to the first 5 counts which charged adulteration, based upon the presence of added water, and pleaded not guilty to the sixth count which charged adulteration because of decomposition. On January 11, 1944, however, the defendant appeared and changed his plea of not guilty on the sixth count to guilty. The court thereupon imposed a fine of $350 on each count, a total of $2,100.

MISCELLANEOUS FRUIT PRODUCTS

5517. Adulteration and misbranding of blackberry jam and strawberry preserves. U. S. v. 2 Cases of Blackberry Jam and 2 Cases of Strawberry Preserves. Default decree of condemnation and destruction. (F. D. C. No. 10061. Sample Nos. 42507–F, 42508–F.)

Analysis indicated that these products were insufficiently concentrated.

On June 16, 1943, the United States attorney for the Western District of Washington filed a libel against 4 cases, each containing 10 2-pound jars or 20 1-pound jars, of blackberry jam or strawberry preserves at Seattle, Wash., alleging that the articles had been shipped from Portland, Oreg., on or about May 12, 1943, by the Dickinson Co.; and charging that they were adulterated and misbranded. The articles were labeled in part: (Jars) "Dickinson's Pure Strawberry Preserves," or "Dickinson's Pure Seedless Blackberry Jam."

The articles were alleged to be adulterated in that an insufficiently concentrated mixture of fruit and sugar, which contained less soluble solids than required in the definition and standard of identity, prescribed in the regulations for preserves or jam, had been substituted in whole or in part for strawberry preserves and seedless blackberry jam.

They were alleged to be misbranded in that the names "Pure Strawberry Preserves" and "Pure Seedless Blackberry Jam" were false and misleading as applied to articles which failed to conform to the definition and standard of identity for preserves or jams; in that the articles were imitations of another food and their labels failed to bear, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated; and in that the articles purported to be a food for which a definition and standard of identity had been prescribed, and they failed to conform to such definition and standard.

On November 8, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

5518. Adulteration of frozen grape pulp. U. S. v. 5 Barrels and 114 Barrels of Frozen Grape Pulp. Decrees of condemnation. Portion of product ordered released under bond for purposes of distillation, and remainder ordered destroyed. (F. D. C. Nos. 9153, 10463. Sample Nos. 15242–F, 19226–F, 19229–F.)

This product was found to contain maggots, and a portion also contained insect fragments.

On January 9 and August 3, 1943, the United States attorneys for the District of Colorado and the District of Massachusetts filed libels against the following quantities of frozen grape pulp: 5 barrels at Boston, Mass., and 114 barrels at Denver, Colo.; alleging that the article, which had been consigned by George W. Haxton & Son, Inc., had been shipped from Sodus, Webster, and Oakfield, N. Y., on or about October 31 and November 23, 1942; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance.

On November 24, 1943, George W. Haxton & Son, Inc., claimant, having admitted the allegations of the libel against the product at Denver, judgment of condemnation was entered and the product was ordered released under bond to be distilled under the supervision of the Food and Drug Administration. On February 14, 1944, no claimant having appeared for the remaining lot, judgment of condemnation was entered and such lot was ordered destroyed.

5519. Adulteration of prune concentrate juice. U. S. v. 15 Barrels and 4 Drums of Prune Concentrate Juice. Decree of condemnation. Product ordered released under bond for distillation into alcohol. (F. D. C. Nos. 9377, 9450. Sample Nos. 11063–F, 44580–F.)

Examination showed that a portion of this product contained insect larvae, parts and fragments, rodent hair fragments, and mites. The remainder contained worm and insect fragments, rodent-type hairs, and mites.

On or about February 15 and March 1, 1943, the United States attorney for the District of Connecticut filed a libel against 15 barrels and 4 drums of prune concentrate juice at New Haven and Hartford, Conn., respectively, alleging that the article had been shipped in interstate commerce on or about December 30, 1942, and February 1, 1943, from Fresno and Fowler, Calif., by the Raisin Syrup Co.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: "Smil-O Brand * * * Prune Concentrate Juice."

On July 6, 1943, A. Joseph, sole owner of Raisin Syrup Co., having appeared as claimant and filed a bond, and the libel proceedings having been consolidated, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be distilled into alcohol.

VEGETABLES AND VEGETABLE PRODUCTS

5520. Alleged adulteration of canned mixed vegetables, canned beets, vegetable soup, and tomato soup. U. S. v. G. L. Webster Co., Inc. Plea of not guilty. Trial by jury. Verdict of not guilty. (F. D. C. No. 7210. Sample Nos. 69196–E, 69197–E, 69576–E, 69579–E.)

On July 31, 1942, the United States attorney for the Eastern District of Virginia filed an information against G. L. Webster Co., Inc., Cheriton, Va., alleging shipment on or about March 7 and April 23, 1941, from the State of Virginia into the State of New York of quantities of canned mixed vegetables, beets, vegetable soup, and tomato soup which were alleged to be adulterated in that they consisted in whole or in part of decomposed substances and were otherwise unfit for food. The cases containing the cans were labeled in part: (Cases) "Mixed Vegetables," "Beets," "Vegetable Soup," or "Tomato Soup." The cans were unlabeled.

On July 19, 1943, a plea of not guilty having been entered on behalf of the defendant, the case came on for trial before a jury. The trial was concluded on July 20, 1943 and the jury returned a verdict of not guilty.

5521. Adulteration and misbranding of canned sliced beets. U. S. v. 246 Cases of Sliced Beets. Default decree of condemnation. Product ordered delivered to Veterans Administration. (F. D. C. No. 10115. Sample No. 769—F.)

The average drained weight of the beets in these jars was 14.46 ounces, or 53.6 percent, of the net weight declared. The packing medium was so dark that it was impossible for the purchaser to observe the quantity of beets in the jars.

On June 23, 1943, the United States attorney for the Northern District of Illinois filed a libel against 246 cases of canned sliced beets at Chicago, Ill.,

alleging that the article had been shipped in interstate commerce on or about February 22, 1943, by the Clyman Canning Co. from Clyman, Wis.; and charging that it was adulterated and misbranded. It was labeled in part: (Jars) "Aunt Nellies Sliced Beets Salt and Vinegar Added Contents 1 Lb. 11 Oz."

It was alleged to be adulterated in that excessive packing medium had been substituted in whole or in part for beets. It was alleged to be misbranded in that its container was so filled as to be misleading, since several ounces more of sliced beets could be packed in the jars, and this slack-filling was not apparent to the purchaser because of the dark color of the packing medium.

On September 29, 1943, no claimant having appeared, judgment was entered nunc pro tunc as of September 10, 1943, condemning the product and ordering that it be delivered to the Veterans' Administration to be used by that Administration and not sold.

5522. Misbranding of cabbage. U. S. v. James N. Barron, William E. Garland and William H. Russum (Produce Exchange). Pleas of nolo contendere. Fine of $25 with respect to each individual. (F. D. C. No. 9690. Sample Nos. 6663-F, 6688-F.)

On September 10, 1943, the United States attorney for the Southern District of Mississippi filed an information against James N. Barron, William E. Garland, and William H. Russum, trading as the Produce Exchange at Crystal Springs, Miss., alleging shipment on or about May 11 and 13, 1943, from the State of Mississippi into the State of Tennessee of quantities of cabbage that was misbranded. The article was labeled in part: (Bags) "50 lbs. Net * * * Uniform Brand Round Type Cabbage," or "Victory Brand 50 Lbs. Net Selected Mississippi Round Type Cabbage * * * Distributed By Crystal Produce Co. Crystal Springs, Miss."

It was alleged to be misbranded (1) in that the statement "50 Lbs. Net," borne on the bags, was false and misleading since the weight of the contents of the bags was less than 50 pounds net; and (2) in that it was in package form and did not bear a label containing an accurate statement of the quantity of the contents.

On May 3, 1944, pleas of nolo contendere having been entered, the court imposed a fine of $25 upon each individual defendant.

5523. Adulteration of canned corn. U. S. v. 222 Cases of Canned Corn. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of the unfit portion. (F. D. C. No. 10423. Sample No. 37278-F.)

On August 16, 1943, the United States attorney for the District of Maryland filed a libel against 222 cases, each containing 24 cans, of corn at Salisbury, Md., alleging that the article had been shipped in interstate commerce on or about April 27, 1943, by Howard E. Jones & Co. from Oxford, Pa.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance by reason of the presence therein of sour and fermented corn. The article was labeled in part: (Can) "Realm Cream Style White Sweet Corn * * * Nationally Distributed by Household Products Co. General Offices, Chicago."

On September 27, 1943, the New Oxford Canning Co., New Oxford, Pa., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it should not be disposed of in violation of the law. The unfit portion was segregated and destroyed under the supervision of the Food and Drug Administration.

5524. Misbranding of canned peas. U. S. v. 196 Cases and 557 Cases of Canned Peas. Consent decrees of condemnation. Product ordered released under bond for relabeling. (F. D. C. Nos. 10719, 10946. Sample Nos. 23743-F, 25384-F, 25385-F.)

On September 9 and October 15, 1943, the United States attorneys for the Eastern District of Pennsylvania and the District of Columbia filed libels against 196 cases of canned peas at Lancaster, Pa., and 557 cases of canned peas at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about July 15 and September 7, 1943, by Thomas & Co., from Gaithersburg, Md.; and charging that it was misbranded. The article was labeled in part: (Cans) "Thomas Brand Early June Peas."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard

since it was a smooth-skin variety of peas and the alcohol-insoluble solids of the article in the container was more than 23.5 percent, and in one of the lots the skins of more than 25 percent by count of the peas in the container were ruptured to a width of 1/16 inch or more; and its labels failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On September 24 and October 25, 1943, Thomas & Co., having appeared as claimant and having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5525. Misbranding of canned peas. U. S. v. 99 Cases and 43 Cases of Canned Peas. Decrees of condemnation. A portion of product ordered delivered to a charitable institution. Remainder ordered released under bond. (F. D. C. Nos. 10368, 10833. Sample Nos. 46345–F, 46365–F.)

On August 14, and October 7, 1943, the United States attorney for the Eastern District of North Carolina filed libels against a total of 142 cases, each containing 24 cans, of peas at Rocky Mount, N. C., alleging that the article had been shipped in interstate commerce on or about July 8 and July 12, 1943, by the Southgate Brokerage Co., Inc., from Norfolk, Va.; and charging that it was misbranded. The article was labeled in part: (Cans) "Jo-Anne Brand * * * Pod Run Early June Jeas Packed By Earl Daniel Deltaville, Virginia," or "Lynnhaven Brand Sifted Early June Peas * * * Southgate Foods Distributors Norfolk, Va."

It was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard since it was a smooth-skin variety of peas and the alcohol-insoluble solids of the article in the container were more than 23.5 percent, and since the skins of more than 25 percent of the peas in the container were ruptured to a width of 1/16 inch or more; and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On September 17, 1943, Earl Daniel, claimant for the "Jo-Anne Brand," having admitted the allegations of the libel covering said brand, judgment of condemnation was entered and the product was ordered released under bond to be destroyed or brought into compliance with the law under the supervision of the Food and Drug Administration. The product was subsequently relabeled. On December 4, 1943, no claim having been entered for the "Lynnhaven Brand," judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

5526. Misbranding of canned peas. U. S. v. 201 Cases of Canned Peas (and 2 additional seizure actions against canned peas). Decrees of condemnation. One lot ordered released under bond for relabeling; remaining lots ordered destroyed. (F. D. C. Nos. 10350, 10391, 10392. Sample Nos. 20238–F, 20239–F, 23717–F.)

On August 2 and 12, 1943, the United States attorneys for the District of Pennsylvania and the District of Massachusetts filed libels against 201 cases of canned peas at Philadelphia, Pa., and 179 cases of canned peas at Fall River, Mass., alleging that the article had been shipped in interstate commerce on or about June 8 and June 21, 1943, by the Eastern Shore Canning Co. from Machipongo, Va.; and charging that it was misbranded. The article was labeled in part: (Cans) "Virginia's Best Early June Peas," "Eastern Shore Brand Sifted Early June Peas," or "Escco Brand Sweet Peas."

The article was alleged to be misbranded in that it purported to be and was represented as canned peas, a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since 1 lot was a smooth-skin variety of peas and the alcohol-insoluble solids of the peas in the container were more than 23.5 percent, and they contained an excessive proportion of peas that were ruptured to a width of 1/16 inch or more; and the remaining 2 lots were sweet, wrinkled varieties of peas, and the alcohol-insoluble solids of the peas in the containers were more than 21 percent, and they failed to meet the test for tenderness prescribed by the regulations; and their labels failed to bear, in such manner and form as the regulations specify, a statement that they fell below such standard.

On August 27, 1943, the Great Atlantic and Pacific Tea Co., of Philadelphia, Pa., having appeared as claimant for the lot located at Philadelphia, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration. On September 20, 1943, no claimant having appeared for the lots located at Fall

River, Mass., judgments of condemnation were entered and the product was ordered destroyed.

5527. Misbranding of canned peas. U. S. v. 87 Cases and 250 Cases of Canned Peas. Consent decree of condemnation. Product ordered released for relabeling upon deposit of cash collateral or execution of bond. (F. D. C Nos. 9850, 9877. Sample Nos. 33534–F, 33535–F.)

On or about April 22 and 29, 1943, the United States attorney for the Southern District of New York filed libels against 337 cases, each containing 24 cans, of peas at New York, N. Y., alleging that the article had been shipped on or about February 15, 1943, from Oostburg, Wis., by the Oostburg Canning Co.; and charging that it was misbranded. The article was labeled in part: (Cans) "Oostburg * * * Early June Peas."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard since it was a smooth-skin variety of peas and the alcohol-insoluble solids in the container were more than 23.5 percent; and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On July 28, 1943, an order was entered for the consolidation of the libel proceedings above described. On August 19, 1943, the Oostburg Canning Co., claimant, having admitted the allegations of the libels, judgment of condemnation was entered and the product was ordered released upon the deposit of cash collateral or the execution of a bond, conditioned that the product be relabeled under the supervision of the Food and Drug Administration.

5528. Misbranding of canned peas. U. S. v. 1,597 Cases of Canned Peas. Consent decree of condemnation. Product ordered released for relabeling, conditioned upon deposit of collateral. (F. D. C. No. 10431. Sample No. 34217–F.)

On August 19, 1943, the United States attorney for the Western District of Pennsylvania filed a libel against 1,597 cases, each containing 24 cans, of peas at Pittsburgh, Pa., alleging that the article had been shipped on or about June 14, 1943, by A. W. Sisk & Son, from Machipongo, Va.; and charging that it was misbranded. It was labeled in part: (Cans) "Esco Brand Sweet Peas * * * Packed By Eastern Shore Canning Company Machipongo, Virginia."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard since it was a sweet, wrinkled variety of peas and the alcohol-insoluble solids in the container were more than 21 percent, and since the article failed to meet the test for tenderness set forth in the regulations, and its label did not bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On September 7, 1943, Eastern Shore Canning Company, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released for relabeling under the supervision of the Food and Drug Administration, upon the deposit of collateral in the form of a certified check.

5529. Misbranding of canned peas. U. S. v. 496 Cases of Canned Peas. Product ordered reelased under bond for relabeling. (F. D. C. No. 10428. Sample No. 52892–F.)

On August 20, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 496 cases, each containing 6 No. 10 cans, of peas at Norfolk, Va., alleging that the article had been shipped on or about July 26, 1943, by H. M. Wagner & Co., Inc., from Baltimore, Md.; and charging that it was misbranded. The article was labeled in part: (Cans) "Wagner's Mt. Washington Brand Early June Peas."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since the article was a smooth-skin variety of peas and its alcohol-insoluble solids in the container were more than 23.5 percent; and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On September 30, 1943, Lord-Mott Co., Inc., Baltimore, Md., having appeared as claimant, an order was entered for the release of the product under bond, conditioned that it be relabeled under the supervision of the Food and Drug Administration.

5530. Adulteration and misbranding of sauerkraut. U. S. v. 129 Cases of Sauerkraut (and 2 other seizure actions against sauerkraut). Decrees of condemnation. Portion of product ordered destroyed and remainder released under bond for reconditioning. (F. D. C. Nos. 10158, 10419, 10420. Sample Nos. 12292–F, 12293–F, 42163–F.)

Examination showed that decomposition had taken place in a portion of the product, and that the remainder was fluffed so that the containers appeared well filled; but with fairly light pressure the product could be pressed down to approximately three-fourths the original volume.

On June 26 and August 25, 1943, the United States attorneys for the Middle District of Tennessee and the District of Oregon filed libels against 129 cases, each containing 6 No. 10 cans, of sauerkraut at Nashville, Tenn., and a total of 850 cases, each containing 12 jars of sauerkraut, at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about May 21 and July 15, 1943, from Nappanee, Ind., and Kent, Wash., by Libby, McNeill and Libby; and charging that it was adulterated and that a portion was misbranded. It was labeled in part: "Libby's Sauerkraut."

The lot at Nashville was alleged to be adulterated in that a substantial proportion was in cans which were swelled and were "leakers," and decomposition had taken place through action of the product on tin. The lots at Portland were alleged to be adulterated in that liquid packing medium had been substituted in whole or in part for sauerkraut; and to be misbranded in that their containers were so filled as to be misleading, the jars containing an excessive amount of liquid packing medium which was not apparent when the jars were observed by the purchaser.

On October 19, 1943, Libby, McNeill and Libby having appeared as claimant for the lots at Portland and consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for reconditioning under the supervision of the Food and Drug Administration. On November 29, 1943, no claimant having appeared for the remainder of the product, judgment of condemnation was entered and it was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS *

5531. Misbranding of canned tomatoes. U. S. v. 1,400 Cases, 697 Cases, and 501 Cases of Canned Tomatoes. Consent decrees of condemnation. Product ordered released under bond to be relabeled. (F. D. C. Nos. 10332, 11051, 11228. Sample Nos. 28985–F, 35834–F, 47648–F.)

On July 27, November 3, and December 4, 1943, the United States attorneys for the Northern and Southern Districts of Georgia and the Southern District of Iowa filed libels against 1,400 cases at Atlanta, Ga., 697 cases at Augusta, Ga., and 501 cases at Ottumwa, Iowa, each case containing 24 cans of tomatoes, alleging that the article had been shipped by Apte Bros. Canning Co from Bushnell, Fla., McColl, S. C., and Edinburg, Tex., within the period from on or about July 2, 1943, to September 11, 1943; and charging that it was misbranded. The article was labeled in part: (Cans) "Colonial Tomatoes * * * Distributors Colonial Stores Incorporated," "Lord Fairfax Brand [or "Apte"] Tomatoes * * * Apte Bros. Canning Co. Distributors. General Offices Miami, Florida."

The article was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard in the case of the Colonial and Fairfax brands with respect to strength and redness of color and, in the case of the Apte brand, because the peel per pound of canned tomatoes in the container covered an area of more than 1 square inch, and the blemishes per pound of canned tomatoes in the container covered an area of more than one-fourth square inch; and its labels failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On August 26 and December 9, 1943, and January 5, 1944, the Apte Bros. Canning Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond, conditioned that it be relabeled under the supervision of the Food and Drug Administration.

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*See also No. 5520, tomato soup.

5532. Misbranding of canned tomatoes. U. S. v. 1,360 Cases of Canned Tomatoes. Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9451. Sample No. 20172–F.)

On March 1, 1943, the United States attorney for the District of Rhode Island filed a libel against 1,360 cases, each containing 24 cans, of tomatoes at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about January 12, 1943, by A. W. Sisk & Son, from Hebron, Md.; and charging that it was misbranded. The article was labeled in part: (Can) "Preston Brand Tomatoes Albert W. Sisk & Son Distributors Not Manufacturers * * * Aberdeen, Md."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality had been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since it contained tomato peel per pound of canned tomatoes in the container which covered an area of more than 1 square inch, whereas the standard provides that the tomato peel per pound of canned tomatoes shall cover an area of not more than one square inch; and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On September 3, 1943, George A. Bounds, doing business as George A. Bounds & Co., Hebron, Md., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5533. Alleged adulteration of tomato catsup. U. S. v. The Summit Packing Co., Inc. Plea of not guilty. Trial by court. Judgment of not guilty. (F. D. C. No. 7685. Sample Nos. 73206–E, 73212–E.)

On October 3, 1942, the United States attorney for the Northern District of Indiana filed an information against the Summit Packing Co., Inc., a corporation, at Wellsboro, Ind., alleging shipment on or about March 21 and April 7, 1942, from the State of Indiana into the State of Missouri of a quantity of tomato catsup that was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Pagin's [or "Lady Clare"] Brand Tomato Catsup," or "Pagin's * * * Tomato Catsup."

On May 3, 1943, counsel for the defendant filed a motion for a bill of particulars, which motion was granted, and on November 16, 1943, the court ordered that the desired information be filed by November 20, 1943. On November 26, 1943, the case came on for trial before the court. Evidence was introduced and arguments of counsel heard at the conclusion of which the court found the defendant not guilty.

5534. Adulteration and misbranding of tomato paste. U. S. v. 79 Cases of Tomato Concentrate. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10066. Sample No. 14447–F.)

On June 18, 1943, the United States attorney for the District of Arizona filed a libel against 79 cases, each containing 6 No. 10 cans, of tomato concentrate at Phoenix, Ariz., alleging that the article had been shipped in interstate commerce on or about April 30, 1943, by the Pleasant Grove Canning Co., from Provo, Utah; and charging that it was adulterated and misbranded. It was labeled in part: (Cans) "Utah Valley Brand Tomato Concentrate."

It was alleged to be adulterated in that tomato puree had been substituted in whole or in part for tomato paste, which the article purported and was represented to be. It was alleged to be misbranded in that it was offered for sale under the name of another food, and in that it purported to be and was represented as tomato paste, a food for which a definition and standard of identity had been prescribed by regulations promulgated pursuant to law, but it failed to conform thereto since such definition and standard provides that tomato paste shall contain not less than 25 percent of salt-free tomato solids, whereas it contained less than 25 percent of salt-free tomato solids, and its label failed to bear, as the regulations require, the name of the food specified in the definition and standard.

On September 3, 1943, the Pleasant Grove Canning Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law under the supervision of the Food and Drug Administration.

5535. Misbranding of tomato paste. U. S. v. 66 Cases of Tomato Paste. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 10269. Sample No. 45274–F.)

On July 20, 1943, the United States attorney for the District of New Jersey filed a libel against 66 cases, each containing 6 No. 10 cans, of tomato paste at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about June 4, 1943, by the Sardik Food Products Corp. from Lockport, N. Y.; and charging that it was misbranded. The article was labeled in part: (Cans) "Fedora Italian Style Tomato Paste Contents 6 Oz. Avoir. Packed by Brocton Preserving Co., Brocton, N. Y."

It was alleged to be misbranded (1) in that the statement "6 Oz. Avoir." was false and misleading as applied to No. 10 cans containing an average of 6 pounds 13.9 ounces; (2) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents; and, (3) in that it purported to be tomato paste, a food for which a definition and standard of identity had been prescribed by regulations as provided by law, but it did not conform to such definition and standard since it contained less than 25 percent of salt-free tomato solids.

On September 15, 1943, Max Millinger, Newark, N. J., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling.

5536. Adulteration of tomato puree. U. S. v. 37 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. D. C. No. 10063. Sample No. 14460–F.)

On June 14, 1943, the United States attorney for the District of Arizona filed a libel against 37 cases of tomato puree at Prescott, Ariz., which had been shipped on or about May 4, 1943, from Salt Lake City, Utah. The article was labeled in part: (Cans) "Smith Brand * * * Distributed by Smith Canning Co., Clearfield, Utah. Athena, Oregon Tomato Puree."

It was alleged to be adulterated in that it consisted in whole or in part of decomposed tomato material, as evidenced by mold.

On August 13, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5537. Adulteration of tomato puree. U. S. v. 2,644 Cases of Tomato Puree. Defaut decree of condemnation and destruction. (F. D. C. No. 10358. Sample Nos. 38148–F, 38149–F, 38907–F.)

Examination showed that this product contained decomposed material as evidenced by mold.

On or about August 16, 1943, the United States attorney for the Northern District of Illinois filed a libel against 2,644 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped by Joe Swidler from St. Marys, Ohio, within the period from on or about April 28 to May 14, 1943; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On October 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5538. Adulteration of tomato sauce. U. S. v. 233 Cases, 28 Cases, and 127 Cases of Tomato Sauce. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. Nos. 9514, 9763, 9793. Sample Nos. 9954–F, 9959–F, 10282–F.)

Examination showed that this product contained decomposed tomato material, as evidenced by mold.

On March 10 and April 8 and 13, 1943, the United States attorney for the Western District of Louisiana filed libels against 233 cases and 127 cases of tomato sauce at Shreveport, La., and 28 cases of tomato sauce at Logansport, La., alleging that the article had been shipped in interstate commerce within the period from on or about February 24 to July 20, 1942, by the Uddo & Taormina Co. from Crystal Springs, Miss.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Cans) "Baby Brand Tomato Sauce."

On October 25, 1943, the Uddo & Taormina Co. having appeared as claimant and the libel proceedings having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law. The unfit portion was subsequently segregated and destroyed.

MEAT AND MEAT PRODUCTS

5539. Adulteration of chicken fat. U. S. v. The E. M. Niles Company and Harry A. Whelan. Pleas of guilty. Corporation fined $25; Harry A. Whelan fined $5. (F. D. C. No. 9630. Sample Nos. 17624–F, 18867–F.)

On June 25, 1943, the United States attorney for the District of Massachusetts filed an information against the E. M. Niles Company, a corporation, of Boston, Mass., and Harry A. Whelan, manager of the Harry E. Whelan Division of the E. M. Niles Company, alleging shipment on or about November 9 and 18, 1942, from the State of Massachusetts into the State of New York of quantities of chicken fat which was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of fecal material and decomposed and putrid extraneous chicken parts such as liver, segments of intestine, muscle, trachea, crop and crop material, caecum, vent, ligaments and other animal tissues, and sour chicken fat.

On January 4, 1944, a plea of guilty was entered on behalf of the corporation and by Harry A. Whelan, and the court imposed the following fines: Corporation, $25; Harry A. Whelan, $5.

5540. Adulteration of chicken fat. U. S. v. Albert Richards Company, Inc. Plea of guilty. Fine, $25. (F. D. C. No. 9629. Sample No. 17630–F.)

On May 10, 1943, the United States attorney for the District of Massachusetts filed an information against the Albert Richards Company, Inc., Boston, Mass., alleging shipment on or about December 8, 1942, from the State of Massachusetts into the State of New York of a quantity of chicken fat which was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of fecal material, pieces of intestine, and duodenum containing fecal material and extraneous material resembling floor dirt.

On January 6, 1944, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $25.

5541. Adulteration of dressed turkeys. U. S. v. 114 Boxes of Dressed Turkeys. Consent decree of condemnation. Portion of product permitted to be withdrawn by Food and Drug Administration, and remainder ordered released under bond for segregation and destruction of the unfit portion. (F. D. C. No. 9021. Sample No. 17627–F.)

On or about December 18, 1942, the United States attorney for the Southern District of New York filed a libel against 114 boxes of dressed turkeys at New York, N. Y., alleging that the article had been shipped on or about November 19, 1942, by Langenfeld Dairy Products, Eureka, S. Dak.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance and in that it was in whole or in part the product of a diseased animal.

On January 13, 1943, the Langenfeld Ice Cream Co., Eureka, S. Dak., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the Food and Drug Administration be permitted to withdraw such number of birds as it might require, and that the remainder be released under bond for segregation and destruction of the unfit portion under the supervision of that Administration.

5542. Adulteration of poultry. U. S. v. 104 Boxes of Poultry. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law or destroyed. (F. D. C. No. 10723. Sample No. 43347–F.)

Examination showed the presence of decomposed poultry.

On September 29, 1943, the United States attorney for the District of Kansas filed a libel against 104 boxes of poultry at Fort Scott, Kans., alleging that the article had been shipped in interstate Commerce on or about August 23, 1943, by the U. S. Cold Storage Co., from Kansas City, Mo.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On September 29, 1943, Edward Aaron Co. of Fort Scott, Kans., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, or destroyed.

NUTS AND NUT PRODUCTS

5543. Adulteration of shelled pecans. U. S. v. Sol. K. Simon (Southern Edible Products Company). Plea of nolo contendere. Fine, $250. Defendant placed on probation for 3 years. (F. D. C. No. 10548. Sample No. 38303–F.)

On September 15, 1943, the United States attorney for the Middle District of Georgia filed an information against Sol. K. Simon, trading as the Southern

Edible Products Company, Albany, Ga., alleging shipment on or about March 8, 1943, from the State of Georgia into the State of Illinois of a number of cartons of shelled pecans that were adulterated. The article was labeled in part: (Cartons) "Bright Pieces * * * S. T. Fish & Co. * * * Chicago, Ill."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy substance because of the presence of rodent hairs and fecal pollution; and in that it had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth.

On November 15, 1943, the defendant having entered a plea of nolo contendere, the court imposed a fine of $250 and the defendant was placed on probation for 3 years, conditioned that he should not shell pecans at any place under insanitary conditions.

5544. Adulteration of pecan meats. U. S. v. 23 Cartons of Pecan Meats. Default decree of condemnation and destruction. (F. D. C. No. 9939. Sample No. 18556–F.)

On May 14, 1943, the United States attorney for the Eastern District of New York filed a libel against 23 cartons of pecan meats at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about April 6, 1943, by the Acker Pecan Products Co. from Albany, Ga.; and charging that it was adulterated in that it consisted in whole or in part of a filthy and decomposed substance, i. e., dirty, decomposed and rancid pecan meats.

On October 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5545. Adulteration of pecan pieces. U. S. v. 5½ Cartons of Pecan Pieces (and 2 additional seizure actions against pecan pieces). Decrees of condemnation. One lot ordered released under bond; remaining lots ordered destroyed. (F. D. C. Nos. 10111, 10210, 10211. Sample Nos. 35152–F to 35154–F, incl., 46162–F, 56503–F.)

All lots of this product contained rancid nuts and portions also contained moldy, decomposed, shriveled, and discolored nuts. Insect excreta was found in one sample.

On June 17 and July 8, 1943, the United States attorneys for the Middle District of Pennsylvania, the District of Columbia, and the Middle District of Georgia filed libels against 5½ 55-pound cartons of pecan pieces at Scranton, Pa., 4 55-pound boxes of pecan pieces at Washington, D. C., and 20 55-pound cases or cartons and 1 27-pound carton of pecan pieces at Thomasville, Ga., alleging that the article had been shipped in interstate commerce within the period from on or about March 22 to June 24, 1943, by the Monticello Pecan Co. of Tallahassee, Fla., from Tallahassee, Fla., and Thomasville, Ga.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed and, in 1 lot, filthy substance.

On August 17, 1943, the Monticello Pecan Co., claimant for the lot located at Thomasville, Ga., having admitted the material allegation of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of in compliance with the law. The fit portion was segregated from the unfit portion, and the latter was destroyed, under the supervision of the Food and Drug Administration. On August 11 and October 18, 1943, no claimant having appeared for the lots located at Scranton, Pa., and Washington, D. C., judgments of condemnation were entered and the product was ordered destroyed.

5546. Adulteration of shelled walnuts. U. S. v. 94 Cartons of Shelled Walnuts (and 2 other seizure actions against shelled walnuts). Consent decrees of condemnation. Product ordered released under bond for reconditioning. (F. D. C. Nos. 10123, 11591, 11638. Sample Nos. 41652–F, 50494–F, 50495–F.)

On June 23, 1943, and January 6 and 14, 1944, the United States attorneys for the Southern District of Ohio and the Eastern District of Pennsylvania filed libels against 344 30-pound cartons of shelled walnuts at Philadelphia, Pa., and 76 25-pound cartons of walnut meats at Columbus, Ohio, alleging that the article had been shipped in interstate commerce within the period from on or about April 30 to December 10, 1943, by the Pacific Coast Nut House, San Jose, Calif.; and charging that it was adulterated.

The article at Columbus, Ohio, was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, webbing, insect excreta, and wormcut walnut meats. The lot at Philadelphia, Pa., was alleged to be adulterated in that a substance, shelled walnuts containing shell fragments, had been substi-

tuted in whole or in part for shelled walnuts, which it purported to be; and in that shell fragments had been mixed and packed therewith so as to reduce its quality.

On July 14, 1943, January 12 and February 18, 1944, Omar, Inc., Columbus, Ohio, the E. B. Evans Co., Philadelphia, Pa., and the Pacific Coast Nut House, claimants for the respective lots, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond for reconditioning so that it would comply with the law. The reconditioning was accomplished by segregating and denaturing the unfit portion and eliminating all extraneous matter and filth.

5547. Adulteration of shelled walnuts. U. S. v. 10 Cases of Shelled Walnuts. Default decree of condemnation and destruction. (F. D. C. No. 10526. Sample No. 56049–F.)

This product cotained larvae, webbing, and insect excreta.

On August 30, 1943, the United States attorney for the Southern District of New York filed a libel against 10 cases, each containing 25 pounds, of shelled walnuts at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about December 4, 1942, by the Whittier Walnut Packing Co. from El Monte, Calif.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance.

On September 21, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5548. Adulteration of black walnut kernels. U. S. v. 107 Barrels and 8 Barrels of Black Walnut Kernels. Consent decree of condemnation. Product ordered released under bond to be segregated to conform with the law. (F. D. C. Nos. 10531, 10718. Sample Nos. 42574–F, 55503–F.)

Examination showed that a portion of this article contained larvae, insect excreta, and webbing, and that the remainder contained larvae, pupae, moths, and webbing.

On September 3 and 11, 1943, the United States attorney for the Western District of Washington filed libels against 107 barrels and 8 barrels of black walnut kernels at Seattle and Tacoma, Wash., respectively, alleging that the articles had been shipped in interstate commerce on or about July 31, 1943, from Chico, Calif., by the Continental Nut Co.; and charging that they were adulterated in that they consisted in whole or in part of filthy substances. The articles were labeled in part: "Blue Ribbon Brand California Black Walnut Kernels."

On October 16, 1943, the libel proceedings having been consolidated and the Continental Nut Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation under the supervision of the Food and Drug Administration so that it would conform to the law.

5549. Adulteration of black walnut kernels. U. S. v. 1 Barrel and 5 Cartons of Black Walnut Kernels. Consent decree of condemnation. Product ordered released under bond, conditioned that it be disposed of only in compliance with the law. (F. D. C. No. 9596. Sample No. 24569–F.)

On March 20, 1943, the United States attorney for the District of Maryland filed a libel against 1 barrel and 5 cartons of black walnut kernels at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about February 27, 1943, by M. G. Dingus, from Dungannon, Va.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, rodent hairs and also *Escherichia coli*, an organism which indicates pollution of fecal origin.

On November 2, 1943, M. G. Dingus, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it should not be sold or disposed of until it had been brought into compliance with the law under the supervision of the Food & Drug Administration.

5550. Adulteration of mixed nut meats. U. S. v. 3 Cartons of Mixed Nut Meats. Default decree of condemnation and destruction. (F. D. C. No. 10326. Sample No. 36238–F.)

Examination of this product showed the presence of fly spray or kerosene.

On July 29, 1943, the United States attorney for the District of Colorado filed a libel against 3 cartons, each containing 50 pounds, of mixed nut meats at Denver, Colo., alleging that the article, which had been consigned by J. Barsotti & Co., was transported in interstate commerce from Chicago, Ill., on or about

May 21 and June 3, 1943; and charging that it was adulterated in that it consisted in whole or in part of a substance unfit for food.

On September 1, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5551. Adulteration of shelled peanuts. U. S. v. 409 Bags of Shelled Spanish Peanuts. Consent decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10663. Sample No. 42491–F.)

On September 14, 1943, the United States attorney for the Western District of Washington filed a libel against 409 bags of shelled Spanish peanuts at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about April 19, 1943, by the Consumers Peanut Co., from Stephenville, Tex.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances by reason of the presence of larvae, pupae, and webbing.

On October 4, 1943, the Butler Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration.

5552. Adulteration and misbranding of peanut butter. U. S. v. Jaxon Foods, Inc. Plea of nolo contendere. Fine of $100 on count 1; fine of $200 each on counts 2, 3, 4, and 5, with payment of the fines on these counts suspended and the defendant placed on probation for 2 years. (F. D. C. No. 10543. Sample Nos. 28451–F, 28452–F, 35401–F, 36064–F, 36111–F, 36113–F.)

On September 24, 1943, the United States attorney for the Southern District of Florida filed an information against Jaxon Foods, Inc., Jacksonville, Fla., alleging shipments within the period from on or about June 27, 1942, to February 5, 1943, from the State of Florida into the States of Georgia, South Carolina, Wyoming, and Colorado of quantities of peanut butter, a portion of which was adulterated and the remainder of which was misbranded. The article was labeled in part: (Jars) "Besmaid [or "Meadow Lark" or "Little Moore Brand"] Peanut Butter."

Certain shipments were alleged to be adulterated in that they consisted in whole or in part of filthy substances by reason of the presence of one or more of the following substances: Rodent hair fragments, grit, or dirt; and in that they had been prepared, packed, or held under insanitary conditions whereby they might have become contaminated with filth.

The other shipments ("Besmaid") were alleged to be misbranded in that the statements on the label of the jars "Net Wt. 12 Ozs," or "Net Wt. 1 Pound," were false and misleading since the jars contained less than the declared weights; and in that the label failed to bear an accurate statement of the quantity of the contents.

On October 9, 1943, the defendant having entered a plea of nolo contendere, the court imposed a fine of $100 on count 1 and a fine of $200 each on the remaining 4 counts. Payment of the fines on the last 4 counts was suspended and the defendant was placed on probation for 2 years, with the provision that the fines on such counts should be paid in the event it should violate the provisions of the law during such period.

5553. Adulteration of peanut butter. U. S. v. 75 Cases and 100 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. D. C. No. 10303. Sample No. 42472–F.)

Examination of this product showed the presence of rodent hairs and rodent pellet fragments.

On July 26, 1943, the United States attorney for the District of Montana filed a libel against 75 cases, each containing 24 1-pound jars, and 100 cases, each containing 12 2-pound jars, of peanut butter at Butte, Mont., alleging that the article had been shipped by the Rogers Co. from Seattle, Wash., on or about July 3, 1943; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: "School Boy Peanut Butter."

On September 24, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5554. Misbranding of peanut butter. U. S. v. 25 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. D. C. No. 10325. Sample No. 20643-F.)

On July 26, 1943, the United States attorney for the District of Massachusetts filed a libel against 25 cases, each containing 24 1-pound jars, of peanut butter at Malden, Mass., alleging that the article had been shipped in interstate commerce on or about April 14, 1943, by the Cream O Specialty Co., from Brooklyn, N. Y.; and charging that it was misbranded. The article was labeled in part: (Jars) "President Peanut Butter Made from Roasted Peanuts Salt added Vitamin-Rich President Products, Inc., West New York New Jersey Net Wt. 1 Lb."

The article was alleged to be misbranded (1) in that the statement "Vitamin-Rich" was false and misleading since peanut butter is not a rich source of vitamin; (2) in that the statement "Net Wt. 1 Lb." was false and misleading as applied to an article short in weight; and (3) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On August 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. Destruction was effected by turning the product over to a charitable institution for the use of the inmates.

5555. Adulteration of shredded coconut. U. S. v. 24 Barrels and 633 Cases of Shredded Coconut. Consent decree of condemnation and destruction. (F. D. C. No. 10162. Sample Nos. 3719-F, 3721-F.)

On July 8, 1943, the United States attorney for the District of Kansas filed a libel against 24 barrels (about 6,165 pounds) and 633 cases (each containing 48 cellophane packages) of shredded coconut at Hutchinson, Kans., alleging that the article had been shipped in interstate commerce within the period from on or about December 21, 1942, to February 16, 1943, by Pure Food Products, Inc., from Dallas, Tex.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances (24 barrels), insects, insect fragments, and rancid coconut, (633 cases) insects and insect fragments. The article was labeled in part: (Barrels) "Monsantu Brand Fancy Shredded and Macaroon Cocoanut," (cases) "Fancy Shredded Coconut," and (packages) "Pure Food Brand Shredded Coconut."

On September 18, 1943, J. S. Dillon & Sons Stores Co., Hutchinson, Kans., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered destroyed.

5556. Adulteration of Nut Krunch Topping and Nut Krunch. U. S. v. 13 Cartons of Nut Krunch Topping and 7 Cartons of Nut Krunch. Default decrees of condemnation. Products ordered destroyed or disposed of as animal feed. (F. D. C. Nos. 10670, 11009. Sample Nos. 34224-F, 34296-F.)

On September 13 and November 3, 1943, the United States attorneys for the Western District of Pennsylvania and the Northern District of Ohio filed libels against 13 cartons of Nut Krunch Topping at Pittsburgh, Pa., and 7 cartons of Nut Krunch at Youngstown, Ohio, alleging that the articles had been shipped in interstate commerce on or about March 22 and April 1, 1943, by I. Kalfus Co., Inc., from New York, N. Y.; and charging that they were adulterated in that they consisted in whole or in part of filthy substances by reason of the presence of filth, such as insects, insect excreta, larvae, cast skins, webbing, and cocoons. The Nut Krunch was labeled in part: "Kalco Brand Nut Krunch." The topping was unlabeled.

On September 23, 1943, and February 3, 1944, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed, the decree in the case involving the 7 cartons of Nut Krunch providing that it might be reprocessed and disposed of as animal feed.

OILS AND FATS

5557. Adulteration and misbranding of olive oil. U. S. v. Sam Silverstein (Sage Chemical Co.). Plea of guilty. Fined $1 and sentenced to 3 months in jail on count 1; sentence on count 2 suspended and defendant placed on probation for 1 year. (F. D. C. No. 5583. Sample No. 50304-E.)

On April 3, 1943, the United States attorney for the Eastern District of New York filed an information against Sam Silverstein, trading as Sage Chemical Co., Brooklyn, N. Y., alleging shipment on or about March 10, 1943, from the State of New York into the State of Maryland of a quantity of olive oil that was adulterated and misbranded. The article was labeled in part: "Golden

Clover Pure Imported Olive Oil For Table and Medicinal Use U. S. P. European Olive Oils Co., Inc. Distributors, Brooklyn, N. Y. Contents 1½ Oz."

The article was alleged to be adulterated (1) in that a substance consisting essentially of cottonseed oil containing little or no olive oil, artificially colored in simulation of olive oil, had been substituted in whole or in part for olive oil which it was represented to be; (2) in that it was an imitation of olive oil consisting essentially of cottonseed oil containing little or no olive oil, and was inferior to olive oil, and its inferiority to olive oil had been concealed by the addition of artificial coloring; (3) in that artificial color had been added to or mixed or packed with it so as to make it appear better and of greater value than it was; and (4) in that it contained a coal tar color other than one from a batch that had been certified in accordance with regulations as provided by law.

It was alleged to be misbranded (1) in that the statement "Pure Imported Olive Oil," borne on the label, was false and misleading since it was not pure imported olive oil; (2) and that it consisted essentially of cottonseed oil artificially colored containing little or no olive oil and was offered for sale under the name of another food, olive oil; (3) in that it was an imitation of olive oil and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; (4) in that it was in package form and did not bear a label containing the name and place of business of the manufacturer, packer, or distributor; (5) in that it was fabricated from two or more ingredients and its label did not bear the common or usual name of each such ingredient; and (6) in that it contained artificial coloring and did not bear labeling stating that fact.

On October 28, 1943, the defendant having entered a plea of guilty, the court imposed a sentence of 3 months in jail and a fine of $1 on count 1, and suspended sentence on count 2, placing the defendant on probation for 1 year.

5558. Adulteration and misbranding of imitation olive oil. U. S. v. 12 Cases of Imitation Olive Oil. Default decree of condemnation and destruction. (F. D. C. No. 10122. Sample No. 32530–F.)

Analysis showed that this product consisted of vegetable oil and mineral oil, artificially colored and flavored, and that it contained 10 percent mineral oil.

On June 24, 1943, the United States attorney for the Northern District of Ohio filed a libel against 12 cases, each containing 24 bottles, of imitation olive oil at Cleveland, Ohio, alleging that the article had been shipped in interstate commerce on or about April 20, 1942, by the Atlantic Chemical Co., Inc., Brooklyn, N. Y.; and charging that it was adulterated and misbranded. The article was labeled in part: (Label pasted on bottle) "Edvic Brand Imitation Olive Oil," (reverse side of label as seen through oil in bottle) "Contains the Following: Soya Bean Oil, Cotton Seed Oil, Artificial Fl. U. S. Certified Color Added. May be used for Hair Oil, Table use, or as a general substitute for Olive Oil."

The article was alleged to be adulterated in that an article containing mineral oil, a non-nutritive substance, had been substituted for a product offered for general food use; and in that a substance, mineral oil, having no food value, had been added thereto or mixed or packed therewith so as to reduce its quality or strength.

The article was alleged to be misbranded in that the statement, "Contains the Following: Soya Bean Oil, Cotton Seed Oil, Artificial Fl. U. S. Certified Color Added," was false and misleading as applied to a product containing mineral oil; and in that the statement of ingredients was not prominently placed on the label with such conspicuousness as to render it likely to be read by an ordinary individual under customary conditions of purchase and use.

On September 9, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5559. Misbranding of olive oil. U. S. v. 21 Cans of Olive Oil. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 10114. Sample No. 44985–F.)

This product was short volume.

On June 19, 1943, the United States attorney for the District of Connecticut filed a libel against 21 cans of olive oil at Waterbury, Conn., alleging that the article had been shipped in interstate commerce on or about May 12, 1943, by the J. Ossola Co., from New York, N. Y.; and charging that it was misbranded in that the statement "Contents One Quart" was false and misleading as applied to an article that was short volume, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the

contents. It was labeled in part: "Contents One Quart Finest Sublime Torino Brand 100% Olive Oil."

On October 13, 1943, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the marshal distribute the oil to charitable institutions after first removing the labels.

5560. Misbranding of oil. U. S. v. 5 Cases of Oil. Default decree of condemnation. Product ordered distributed to welfare organizations. (F. D. C. No. 9929. Sample No. 32074-F.)

This product consisted essentially of an oil other than olive oil, and contained little if any olive oil. The statement of ingredients listed "vegetable oil," which is not the common or usual name.

On May 12, 1943, the United States attorney for the Southern District of Ohio filed a libel against 5 cases, each containing 6 cans, of oil at Cincinnati, Ohio, which had been consigned on or about February 16, 1943, alleging that the article had been shipped by the Western Food Corporation from Chicago, Ill.; and charging that it was misbranded. The article was labeled in part: "Liguria Superfine Brand An Excellent Composition of 80% Vegetable oil and 20% of Pure Virgin Olive Oil," (and a design of medals).

The article was alleged to be misbranded in that the prominent word "Liguria," which is the name of an Italian province, the prominent statement "Pure Virgin Olive Oil," and the design of medals, were false and misleading since they created the impression that the article was a foreign product, whereas it was not a foreign product; and in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

On July 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to welfare organizations.

5561. Adulteration and misbranding of salad dressing. U. S. v. 4 Quart and 12 Pint Jars, and 87 Quart and 53 Pint Jars of Salad Dressing. Default decree of condemnation and destruction. (F. D. C. No. 10175. Sample Nos. 12246-F, 12261-F.)

Samples of this product were found to contain mineral oil in amounts ranging from a very small quantity up to 96 percent.

On or about July 2, 1943, the United States attorney for the Western District of Washington filed a libel against a total of 91 quart and 65 pint jars of salad dressing at Longview, Wash., alleging that the article had been shipped in interstate commerce from Portland, Oreg., by the Tasty Food Co. on or about January 21, April 24, and June 2, 1943; and charging that it was adulterated and misbranded. The article was labeled in part: "Over the Top Brand * * * Salad Dressing * * * New and Improved * * * The ingredients in order of their importance are: Cottonseed oil, water, corn starch, sugar," or "Over the Top Brand * * * Salad Dressing, Contains: Water, Cottonseed Oil, Rice Flour, Whole Eggs, Spice and Vinegar."

The article was alleged to be adulterated (1) in that a valuable constituent, an edible food oil, had been wholly or in part omitted therefrom; (2) in that an article containing mineral oil, a non-nutritive substance, had been substituted for a product offered for general food use and employed to replace salad dressing; and, (3) in that mineral oil, having no food value, had been added thereto or mixed or packed therewith so as to reduce its quality or strength.

The article was alleged to be misbranded in that the statements on the jars, "Salad Dressing Cottonseed Oil," and "Salad Dressing Contains: Cotton Seed Oil," were false and misleading as applied to a product containing up to approximately 96 percent of mineral oil, a non-nutritive substance; and in that it was offered for sale under the name of another food, salad dressing, containing cottonseed oil.

On September 15, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5562. Adulteration and misbranding of salad dressing. U. S. v. 23 Cases of Salad Dressing. Default decree of condemnation and destruction. (F. D. C. No. 9958. Sample No. 5959-F.)

This product contained about 80 percent of fatty material of which about 50 percent was mineral oil, the remainder being an assimilable fat.

On May 15, 1943, the United States attorney for the Eastern District of Missouri filed a libel against 23 cases, each containing 12 bottles, of salad dressing at St. Louis, Mo., alleging that the article had been shipped in interstate commerce

on or about April 10, 1943, by the Wheatley Mayonnaise Co. from Louisville, Ky.; and charging that it was adulterated and misbranded. The article was labeled in part: "Topmost General Grocer Co. Distributors St. Louis, Mo. Keep Slim Dressing Special Dietary Preparation for use on Salad."

The article was alleged to be adulterated in that it was a salad dressing and a valuable constituent, namely, vegetable oil, had been in part omitted therefrom, and in that mineral oil had been substituted in part for the article.

It was alleged to be misbranded in that the statement, "Keep Slim Dressing Special Dietary Preparation for use on Salad," was false and misleading since it was not a special dietary preparation and could not fulfill the implied promise in the name "Keep Slim," due to its high assimilable fat content.

On June 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5563. Misbranding of French dressing. U. S. v. 124 Cartons of French Dressing. Default decree of condemnation. Product ordered delivered to a welfare organization after destruction of labels. (F. D. C. No. 6686. Sample No. 84723–E.)

On January 12, 1942, the United States attorney for the District of New Jersey filed a libel against 124 cartons of French dressing at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about November 17, 1941, by the Agash Refining Corporation from Brooklyn, N. Y.; and charging that it was misbranded. The article was labeled in part: (Main panel) "Agash * * * Enriched With Olive Oil French Dressing," (in fine print) "Made of Peanut Oil, cider vinegar, modified with water, olive oil, tomatoes, sugar, salt, spices, gum tragacanth, garlic and onion." (Neckband and bottle cap) "Enriched With Agash Olive Oil."

The article was alleged to be misbranded in that the statements, "Enriched With Olive Oil French Dressing" and "Enriched With Agash Olive Oil," were false and misleading as applied to a French dressing approximately 75 percent of the oil content of which consisted of peanut oil.

On October 11, 1943, the answer of the Agash Refining Corporation having been stricken on motion of the United States Attorney and no other claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a welfare organization with the proviso that that the labels be destroyed as directed by the Food and Drug Administration.

5564. Misbranding of sandwich spreads and salad dressings. U. S. v. 50 Cases of Shurfine Sandwich Spread, 10 Cases of Tastewell Nipp, and 120 Cases of Salad Treat Salad Dressing. Default decree of forfeiture. Products ordered delivered to the Salvage Committee of the War Production Board. (F. D. C. No. 10283. Sample Nos. 42709–F, 42711–F, 42712–F.)

These products were short volume.

On July 22, 1943, the United States attorney for the District of Idaho filed a libel against the above-named products at Boise, Idaho, alleging that the articles had been shipped from Seattle, Wash., on or about June 26, 1943, by the Turner & Pease Co., Inc.; and charging that they were misbranded. The articles were labeled in part: (Jars) "Shurfine Sandwich Spread [or "Tastewell * * * Nipp"] * * * Contents 1 Pt. * * * National Retailer-Owned Grocers, Inc. Distributors * * * Chicago, Ill.," or "Salad Treat Treat Salad Dressing * * * Contents 1 Quart."

They were alleged to be misbranded in that the statements "contents 1 Pt." (50 cases), "Contents 1 Pint" (10 cases), and "Contents 1 Quart" (120 cases), were false and misleading as applied to articles that were short volume; and in that they were in package form and failed to bear labels containing an accurate statement of the quantity of the contents.

On September 20, 1943, no claimant having appeared, judgment of forfeiture was entered and the products were ordered delivered to the Salvage Committee of the War Production Board.

SPICES

5565. Adulteration of mustard seed. U. S. v. 162 Bags, 35 Barrels, and 31 Boxes of Mustard Seed. Decree of condemnation and destruction. (F. D. C. No. 9575. Sample No. 5664–F.)

This product was stored after shipment under extremely insanitary conditions. About half the bags were cut or torn and a large amount of the seed was spilled on the floor. Numerous rodent pellets were found on the bags, in the cut areas, and on the spilled mustard seed. The seed in the barrels and boxes had been transferred from the original bags because of rodent cutting, and these boxes

and barrels also contained numerous rodent pellets. Examination of samples showed that the product contained rodent pellets, rodent hairs, and miscellaneous debris.

On March 16, 1943, the United States attorney for the Eastern District of Missouri filed a libel against 162 bags, 35 barrels, and 31 boxes of mustard seed at St. Louis, Mo., alleging that the article had been shipped from Havre, Mont., on or about July 21, 1942, and was in the possession of Berger Foods Co., St. Louis, Mo.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On November 13, 1943, no claimant having appeared other than Archie Berger and Ben Berger, doing business as the Berger Foods Co., and those individuals having subsequently abandoned their claim, judgment of condemnation was entered and the product was ordered sold to such persons as would adopt such safeguards as might be directed by the Food and Drug Administration against its use in violation of the law. On January 17, 1944, no purchaser having been found, an amended decree was entered for the destruction of the product.

5566. Adulteration of mustard seed. U. S. v. 210 Bags of Mustard Seed. Consent decree of condemnation. Product ordered released under bond to be reconditioned. (F. D. C. No. 10664. Sample No. 56052–F.)

On September 7, 1943, the United States attorney for the Southern District of New York filed a libel against 210 bags of mustard seed at New York, N. Y., alleging that the article had been shipped on or about May 12, 1943, by the Montana Mustard Seed Co., Power, Mont.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of larvae and insect fragments. The article was labeled in part: "Superior Brand Mustard Seed Distributed by Farmer's Trading Co. Cut Bank, Montana".

On October 18, 1943, Max Feuerstein, Brooklyn, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond to be reconditioned under the supervision of the Food and Drug Administration. The product was reconditioned and the good portion was released to the claimant and the bad portion was destroyed.

5567. Adulteration of cayenne pepper. U. S. v. 235 Cartons and 63 Cases of Cayenne Pepper. Default decrees of condemnation and destruction. (F. D. C. Nos. 10057, 10174. Sample Nos. 10852–F, 11253–F.)

On June 8 and July 2, 1943, the United States attorney for the Northern District of California filed libels against 235 cartons and 63 cases, each containing 12 cartons, of cayenne pepper at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about April 26 and 27, 1943, by H. Schoenfeld & Sons, Inc., from New York, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, (one lot) insect fragments, (other lot) insect and worm fragments. The article was labeled in part: "Sunred Spices Pure Cayenne Pepper."

On August 20, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5568. Adulteration of cayenne pepper. U. S. v. 865½ Cases of Cayenne Pepper. Default decree of condemnation and destruction. (F. D. C. No. 9170. Sample No. 11081–F.)

On January 11, 1943, the United States attorney for the Northern District of California filed a libel against 865½ cases, each containing 12 cartons, of cayenne pepper at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about November 28, 1942, by Durkee Famous Foods, Inc., from Corona, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, insect fragments and rodent hair fragments. The article was labeled in part: (Carton) "Durkee's Cayenne Pepper."

On September 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5569. Adulteration of sesame seed. U. S. v. 8 Bags of Sesame Seed. Default decree of condemnation and destruction. (F. D. C. No. 10134. Sample No. 45272–F.)

This product was stored after shipment in interstate commerce in a storeroom that was heavily infested with flour moths and insects.

On or about June 24, 1943, the United States attorney for the District of New Jersey filed a libel against 8 bags of sesame seed at Elizabeth, N. J., in the

possession of the Burry Biscuit Corporation, alleging that the article had been shipped in interstate commerce within the period from on or about March 31 to May 5, 1943, from Brooklyn, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, weevils, cocoons, and insect excreta, and in that it had been held under insanitary conditions whereby it may have become contaminated with filth.

On August 4, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5570. Adulteration of spices and adulteration and misbranding of celery seed. U. S. v. 10 Cases of Tumeric, 4 Cases of Spice, 5 Cases of Celery Seed, 5 Cases of Ginger, and 4 Cases of Cayenne Pepper. Default decree of condemnation and destruction. (F. D. C. No. 8340. Sample Nos. 5742–F to 5744–F, incl., 5746–F, 5747–F.)

These products all contained filth and one, celery seed, was short weight.

On September 11, 1942, the United States attorney for the Western District of Arkansas filed a libel against 10 cases of tumeric, 4 cases of pickling spice, 5 cases of celery seed, 5 cases of ginger, and 4 cases of cayenne pepper at Hot Springs, Ark., alleging that the articles had been shipped in interstate commerce on or about November 14, 1941, and July 16, 1942, by Canova Foods, Inc., from Memphis, Tenn.; and charging that they were adulterated and that the celery seed was misbranded. The articles were labeled in part: "Canova Brand."

They were alleged to be adulterated in that they consisted in whole or in part of filthy substances, (tumeric and pepper) insect fragments and rodent hairs, (pickling spice) adult beetles (some alive), larvae, and insect excreta pellets; (celery seed) insect heads, larvae cast skins, insect fragments, and rodent hairs; (ginger) rodent hairs, adult beetles, and insect fragments.

The celery seed was alleged to be misbranded in that it was in package form and was incorrectly labeled since the statement on the label "Net Weight 1½ Ounces" was incorrect.

On February 22, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

MISCELLANEOUS FOOD PRODUCTS

5571. Misbranding of baking powder. U. S. v. 12 Cases of Baking Powder, et al. Default decree of condemnation and destruction. (F. D. C. No. 9489. Sample No. 19940–F.)

This product was deficient in available carbon dioxide.

On March 10, 1943, the United States attorney for the District of Rhode Island filed a libel against 9 cases, each containing 24 1-pound cans, 12 cases, each containing 24 8-ounce cans, 72 individual 1-pound cans, and 121 individual 8-ounce cans, of baking powder, at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about January 6, 1943, by the Goodman Products Corporation from Brooklyn, N. Y.; and charging that it was misbranded. The article was labeled in part: (Cans) "Silver Gift Brand * * * Baking Powder."

The article was alleged to be misbranded in that the name "Baking Powder," and the statements, "Complies with all U. S. Pure Food Laws * * * Directions—Use the same as any other high-grade Baking Powder, or in accordance with the recipes of any reliable cook book, and satisfactory results are guaranteed," borne on the label, were false and misleading as applied to an article that was deficient in available carbon dioxide and which, when used as any other baking powder, would not produce satisfactory results.

On April 21, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5572. Misbranding of Butex. U. S. v. 9 Drums, 13 Drums, and 2 Drums of Butex. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 10310. Sample No. 42464–F.)

This product was an imitation butter flavoring.

On August 13, 1943, the United States attorney for the Western District of Washington filed a libel against 9 drums, each containing 15 pounds, 13 drums, each containing 25 pounds, and 2 drums, each containing 100 pounds, of Butex, at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about May 7, 1943, by Weber & Mollner from Los Angeles, Calif.; and charging that it was misbranded.

The article was alleged to be misbranded (1) in that the label statements, "Master Brand The Original and Only Butex A Unique Flavor Essence for

'That Butter-Like Taste' Made with Natural Flavoring Oils derived from Butter, Fortified by Oils developed from a Fermented Culture and processed with Certain Fixatives 'to keep the butter-like taste from baking out' Enriches All Baking and Cooking," were false and misleading since they implied that the article was essentially a natural butter flavoring, whereas it was essentially an artificial flavoring with little, if any, natural butter flavoring; (2) in that the statement "Enriches All Baking and Cooking" was false and misleading since the article did not enrich, but artificially flavored food; (3) in that it was an imitation of another food, butter flavor, and its label did not bear, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated; and (4) in that the article was a flavoring sold as such, fabricated from two or more ingredients, and failed to bear the common or usual name of each such ingredient, since diacetyl and/or acetyl methyl carbinol are the common or usual names of flavoring ingredients that were present in the article, and their presence was not declared in the labeling.

On October 29, 1943, Oscar Lucks Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling.

5573. Misbranding of Egg-O-Milk Co.'s Blend. U. S. v. 32 Sacks of Egg-O-Milk Co.'s blend. Default decree of condemnation. Product ordered delivered to a welfare organization for use as animal feed. (F. D. C. No. 9738. Sample No. 27604–F.)

Analysis showed this product to consist essentially of soybean flour, barley and wheat flour, and a small amount of yellow corn meal.

On or about April 8, 1943, the United States attorney for the Western District of Virginia filed a libel against 32 sacks of an article labeled in part: "Egg-O-Milk Co.'s Blend," alleging that the article had been shipped in interstate commerce on or about December 30, 1942, by the Hood Mills Co., from Baltimore, Md.; and charging that it was misbranded. The article was labeled in part: (Tag) "Egg-O-Milk Co.'s Blend * * * Egg-O-Milk Co., Manufacturers P. Fred'k Obrecht & Son, Distributors, Baltimore, Md."

The article was alleged to be misbranded in that the name of the product, "Egg-O-Milk Co.'s Blend," was misleading since it was formerly sold under the name "Egg-O-Milk," and the said name represented and suggested that it consisted essentially of egg and milk, whereas it did not consist essentially of egg and milk. It was alleged to be misbranded further in that the statements appearing on the label, "Dried Buttermilk, Dried Skim Milk, Malt Flour (Wheat Malt, Barley Malt, Soy Malt) Powdered Egg-Yolk, Yeast," were false and misleading as applied to a product containing little or no dried buttermilk, dried skim milk, powdered egg yolk, or yeast.

On October 26, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a welfare organization for use as animal feed.

5574. Misbranding of No-Bak preservative. U. S. v. 10 One-Gallon Jars of "No-Bak." Default decree of condemnation and destruction. (F. D. C. No. 9896. Sample No. 5666–F.)

Analysis indicated that this product consisted essentially of water, acetic acid, glycerine, salt, sodium bicarbonate, and citric acid. Bacteriological tests were made of the product and it failed to kill any of the test organisms in the recommended dilution.

On May 4, 1943, the United States attorney for the Southern District of Iowa filed a libel against 10 1-gallon jars of an article labeled in part: "NO-Bak," at Shenandoah, Iowa, alleging that the article had been shipped in interstate commerce on or about October 10, 1942, by the California Orange Juice Co., from Cleveland, Ohio.

It was alleged to be misbranded in that the following statements in the labeling, "No-Bak (No Bacteria) A Fine Preservative Kills Yeast Germs and Bacteria Prevents Mold and Spoilage in Beverages, Beer, Fruit Juices, Crushed Fruits, Fresh Fruits and Vegetables. * * * Use only ½ oz. to a Gallon, liquid, beverage, etc., to be preserved. To a 50-Gal. Bbl. Pickles, containing the average 17 Gals. water liquid, use ½ oz. to one gal. or 8½ oz. to bbl.," were false and misleading as applied to an article that had no merit as a preservative.

On July 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5575. Adulteration of Puddine. U. S. v. 44 Cases of an article labeled in part "Puddine For Making Desserts." Default decree of condemnation and destruction. (F. D. C. No. 9710. Sample No. 23251–F.)

On March 26, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 44 cases, each containing 24 packages, of the above-named product at Lancaster, Pa., alleging that the article had been shipped in interstate commerce within the period from on or about September 17, 1942, to February 23, 1943, by Martin Gillet & Co. from Baltimore, Md.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, insect fragments, rodent hair fragments, and hair fragments resembling rodent hair; and in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

On April 17, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5576. Misbranding of ice cream powder. U. S. v. 150 Cases of Assorted Flavors of Jell-O Ice Cream Powder. Default decree of condemnation. Products ordered distributed to welfare organizations. (F. D. C. No. 10145. Sample Nos. 48326–F to 48328–F, incl.)

These products were short-weight.

On June 24, 1943, the United States attorney for the Southern District of Ohio filed a libel against 150 different flavored packages of Jell-O ice cream powder at Cincinnati, Ohio, which had been consigned on or about June 5, 1943, alleging that the articles had been shipped in interstate commerce on or about June 5, 1943, by the General Foods Sales Co., Inc., from Chicago, Ill.; and charging that they were misbranded. The articles were labeled in part: "Imitation Strawberry Flavor Net Wt. 4¾ Oz. [or "Vanilla Flavor Net Wt. 4¾ Oz." or "Chocolate Flavor Net Wt. 4 Oz."] * * * Jell-O Ice Cream Powder."

The articles were alleged to be misbranded in that the hereinbefore quoted statements with respect to the quantity of the contents of the packages were false and misleading as applied to articles that were short-weight; and in that they were in package form and failed to bear labels containing an accurate statement of the quantity of the contents.

On July 27, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to various welfare organizations.

5577. Adulteration and misbranding of cracker sandwiches and confections. U. S. v. Beavens Lee Terry (B. L. Terry Co.). Plea of guilty. Fine, $100. (F. D. C. No. 9682. Sample Nos. 37032–F to 37035–F, incl., 37065–F, 37067–F, 37068–F, 37083–F, 37085–F, 37086–F, 45921–F to 45923–F, incl.)

Analysis of samples showed that this product contained one or more of the following filthy substances: Insect fragments, hair fragments resembling rodent hair fragments, a whole insect, and mites. Portions of the product were short weight and the statement appearing on the label of one portion, and purporting to be a statement of the quantity of contents, was illegible.

On September 16, 1943, the United States attorney for the Western District of Virginia filed an information against Beavens Lee Terry, trading as the B. L. Terry Co., Bristol, Va., alleging shipment within the period from on or about February 17 to March 24, 1943, from the State of Virginia into the States of West Virginia and Tennessee of quantities of cracker sandwiches and confections which were adulterated and portions of which were misbranded. The article was labeled in part: (Packages) "Terry's Crispy Toasts [or "Rich Cheese," "Cheeztang," "Two-Tone," "Strawberry Sandwich," "Tas-T-Nut," or "Pineapple Sandwich"]."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

Portions of the article were alleged to be misbranded in that the statement "Wt. 2 Oz.," borne on a number of the packages, was false and misleading since such packages contained an amount less than 2 ounces; and in that such portions were in package form and did not bear a label containing an accurate statement of the quantity of the contents.

On November 9, 1943, the defendant having entered a plea of guilty, the court imposed a fine of $10 on each of 10 counts, totaling $100.

5578. Adulteration and misbranding of cheese sandwiches and misbranding of cheese snacks. U. S. v. 16 Dozen Cans of Cheese Sandwiches and 90 Boxes of Cheese Snacks. Default decrees of condemnation and destruction. (F. D. C. Nos. 10395, 10403. Sample Nos. 19227–F, 20115–F, 34216–F.)

These "cheese sandwiches" contained a filling consisting essentially of 20 to 25 percent cheese, cornstarch, an edible oil other than butter fat and added coal-tar color. The "Cheese Snacks" were short weight.

On August 11 and 12, 1943, the United States attorneys for the District of Massachusetts and the Western District of Pennsylvania filed libels against 16 dozen cans of cheese sandwiches at Boston, Mass., and 90 boxes of cheese snacks at Pittsburgh, Pa., alleging that the articles had been shipped in interstate commerce within the period from on or about April 22 to July 7, 1943, by the King Kone Corporation, from New York, N. Y. The articles were labeled in part: "Old London Dainty Cheese Sandwiches," or "Toasted Cheese Snacks * * * Net Wt. 2½ Oz."

The cheese sandwiches were alleged to be adulterated (1) in that a valuable constituent, cheese, had been omitted; (2) in that wafer sandwiches containing a filling of cheese, cornstarch, edible oil other than butter fat, and artificial color, had been substituted in whole or in part for "Old London Dainty Cheese Sandwiches," which they were represented to be; (3) in that inferiority had been concealed by the addition of artificial coloring; and (4) in that edible oil other than butter fat, artificial coloring, and cornstarch had been added thereto or mixed or packed therewith so as to make it appear better or of greater value than it was.

The cheese sandwiches were alleged to be misbranded in that the statement, "Old London Dainty Cheese Sandwiches," was false and misleading. The cheese snacks were alleged to be misbranded in that the statement "Net Wt. 2½ Oz." was false and misleading as applied to an article that was short weight, and in that they were in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On September 14 and 20, 1943, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

5579. Misbranding of peanut butter sandwiches. U. S. v. Madalynn J. Kelley (Bob Kelley Food Sales Co.) Plea of guilty. Fine, $300 and costs. (F. D. C. No. 9663. Sample No. 32067–F, 32068–F.)

On June 25, 1943, the United States attorney for the Western District of Kentucky filed an information against Madalynn J. Kelley, trading under the name Bob Kelley Food Sales Co. at Louisville, Ky, alleging shipment within the period from on or about March 12 to 23, 1943, from the State of Kentucky into the State of Ohio of a quantity of peanut butter sandwiches which were misbranded. The articles were labeled in part: (Label inserted inside cellophane package) "The Original Bob Kelley's Butter Cracker [or "Cheese Cracker"] and Peanut Butter Sandwich * * * Net Wt. 1¾ Oz."

The articles were alleged to be misbranded (1) in that the statement "Net Wt. 1¾ Oz.," borne on the label, was false and misleading, since the packages did not contain 1¾ ounces net weight, but did contain a smaller amount; and (2) in that they were in package form and did not bear labels containing an accurate statement of the quantity of the contents.

On September 20, 1943, the defendant having entered a plea of guilty, the court imposed a fine of $300 and costs.

5580. Misbranding of peanut butter sandwich. U. S. v. 13,520 Packages of Peanut Butter Sandwich. Consent decree of condemnation. Produet ordered released under bond for relabeling. (F. D. C. No. 9778. Sample Nos. 32067–F, 32068–F.)

This product was short-weight.

On April 8, 1943, the United States attorney for the Southern District of Ohio filed a libel against a total of 13,520 packages of peanut butter sandwich at Cincinnati, Ohio, (consigned on or about March 12 and 20, 1943) alleging that the article had been shipped in interstate commerce by the Bob Kelley Food Sales Co. from Louisville, Ky.; and charging that it was misbranded. The article was labeled in part: "The Original Bob Kelley's * * * Peanut Butter Sandwich * * * Net Wt 1¾ Oz."

The article was alleged to be misbranded in that the statement "Net Wt. 1¾ Oz." on the label was false and misleading as applied to an article that was short-weight; and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On April 14, 1943, the Bob Kelley Food Sales Co. having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5581. Adulteration of barbecue sauce. U. S. v. 99 Cases of Barbecue Sauce. Default decree of condemnation and destruction. (F. D. C. No. 10064. Sample No. 39315–F.)

This product was undergoing active spoilage.

On June 18, 1943, the United States attorney for the District of Arizona filed a libel against 99 cases of barbecue sauce at Phoenix, Ariz., alleging that the article had been shipped and consigned in interstate commerce on or about April 23, 1943, by Breakfast Club Sales, Inc., from Los Angeles, Calif.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Bottles) "Formula from Missouri Missouri Brand Hickory Barbecue Sauce. * * * Packed By Breakfast Club Coffee Inc., Los Angeles, San Francisco.

On August 19, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5582. Adulteration of hot sauce. U. S. v. 23 Cases of Hot Sauce. Default decree of condemnation and destruction. (F. D. C. No. 10065. Sample No. 14446–F.)

On June 18, 1943, the United States attorney for the District of Arizona filed a libel against 23 cases of hot sauce at Phoenix, Ariz., alleging that the article had been shipped and consigned in interstate commerce on or about April 13, 1943, by the La Victoria Sales Co., from Los Angeles, Calif.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, rodent hairs and fly fragments, and in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth. The article was labeled in part: (Bottles) "(Since 1917) Salsa Brava Brand Mexicana Hot Sauce."

On August 19, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5583. Misbranding of soy sauce. U. S. v. 24 Cases of Soy Sauce. Default decree of condemnation. Product ordered distributed for charitable purposes. (F. D. C. No. 10333. Sample No. 43101–F.)

This product was short of the declared volume, and the labels failed to bear the required ingredient statement.

On July 3, 1943, the United States attorney for the District of Oregon filed a libel against 24 cases, each containing 12 bottles, of soy sauce at Portland, Oreg., alleging that the article had been shipped in interstate commerce by the U. S. Macaroni Manufacturing Co. from Spokane, Wash., on or about May 6, 1943; and charging that it was misbranded. It was labeled in part: (Cases and bottles) "U. S. Taystie Brand Genuine Soy Sauce * * * Net Contents 6 Oz."

The article was alleged to be misbranded (1) in that the statement "Net Contents 6 Oz." was false and misleading as applied to a product that was short volume; (2) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents; and (3) in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient.

On September 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered distributed for charitable purposes.

5584. Adulteration of soup mixes. U. S. v. 193 Packages and 74 Dozen Boxes of Soup Mixes. Default decrees of condemnation and destruction. (F. D. C. Nos. 9765, 9770. Sample Nos. 23516–F, 23517–F, 44598–F.)

This product contained insect fragments, rodent excreta fragments, rodent hair fragments, and fragments resembling rodent hairs.

On or about April 7 and 8, 1943, the United States attorneys for the Middle District of Pennsylvania and the District of Connecticut filed libels against 193 packages of soup mixes at Wilkes-Barre, Pa., and 74 dozen boxes at Bridgeport, Conn., alleging that the article had been shipped in interstate commerce on or about February 23, 1943, by A. Goodman & Sons, Inc., from New York N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth. The article was labeled in part: "Goodman's Vegetable Noodle Soup Mixture [or "Noodleman Soup Mix"]."

On May 5 and June 25, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5585. Adulteration and misbranding of noodle soup. U. S. v. 25 Cartons of Noodle Soup. Decree of condemnation. Product ordered destroyed or delivered to a welfare organization. (F. D. C. No. 10138. Sample No. 14363–F.)

Examination showed this product consisted of a mixture of egg noodles with chicken fat, hydrogenated vegetable oil, and artificial flavoring.

On or about July 6, 1943, the United States attorney for the District of Oregon filed a libel against 25 cases of noodle soup at Eugene, Oreg., alleging that the article had been shipped in interstate commerce on or about May 15, 1943, by the Aldama Products Co. from Los Angeles, Calif.; and charging that it was adulterated and misbranded. The article was labeled in part: (Envelope) "E. Z. Noodle Soup" (Picture of a hen). The envelope also bore the words "Real Chicken Fat" in large prominent type and the statement, "Ingredients: Contains Real Egg Noodles, Chicken Fat, Hydrogenated Vegetable Oil * * * Artificially Flavored 3 Ozs. Net Wt." in small, inconspicuous type.

The article was alleged to be adulterated in that a substance containing both chicken fat and vegetable oil had been substituted for an article purporting to contain fat derived from chicken only.

The article was alleged to be misbranded in that the statement "With Chicken Fat," appearing on the display carton and shipping case, and the prominent statement "Real Chicken Fat," and the picture of a hen appearing on the envelope, were misleading since they implied that the fat present was all chicken fat, whereas hydrogenated vegetable oil was also present, and this impression was not corrected by the inconspicuous ingredient declaration. It was alleged to be misbranded further in that the statement of ingredients, required by the Act to appear on the label or labeling, was not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

On August 4, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to a welfare organization.

5586. Misbranding of chicken noodle soup mix. U. S. v. 15 Cases of Chicken Noodle Soup Mix. Default decree of condemnation and destruction. (F. D. C. No. 9932. Sample No. 15115–F.)

On May 13, 1943, the United States attorney for the District of Oregon filed a libel against 15 cases of chicken noodle soup mix at Brownsville, Oreg., alleging that the article had been shipped in interstate commerce on or about April 6, 1943, by the DeLuxe Brands Co., from Los Angeles, Calif.; and charging that it was misbranded. The article was labeled in part: "DeLuxe Brand * * * [vignette of a chicken] Chicken Noodle Soup Mix." The article was alleged to be misbranded in that the vignette of a chicken and the name "Chicken Noodle Soup Mix" was false and misleading as applied to an article that contained little, if any, extractives of chicken, and which owed its flavor, at least in part, to artificial flavor.

On July 12, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

GIFT PACKAGES OF FOOD *

5587. Adulteration of gift packages. U. S. v. 51 Cartons of "Victory Snack-Pack." Default decree of condemnation and destruction. (F. D. C. No. 10854. Sample No. 29667–F.)

Examination showed the peanuts in this assortment were infested with beetles.

On October 7, 1943, the United States attorney for the Northern District of California filed a libel against 51 cartons, each containing an assortment of cookies, nuts, candies, a jar of peanut butter, and a jar of olives or cherries, at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about July 28, 1943, by the United States Candy and Food Corporation from New York, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (Cartons) "Victory Snack-Pack".

On November 9, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5588. Adulteration and misbranding of gift packages. U. S. v. 47 Dozen and 9 Cases of Gift Packages. Default decrees of condemnation and destruction. (F. D. C. Nos. 10928, 12180. Sample Nos. 29671–F, 60530–F.)

Examination showed that the crackers, candy, and peanuts in these packages contained one or more of the following: Insect excreta, webbing, pupae, beetles,

*For gift packages containing candy as the only food product see Nos. 5443, 5444.

or larvae. The crackers in one lot were rancid and unpalatable. One lot was also short weight.

On October 12, 1943, and April 13, 1944, the United States attorney for the Northern District of California filed libels against 47 dozen gift packages and 9 cases, each containing 12 gift packages in the form of checkerboard cartons, at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about September 1 and 3, 1943, by Newberg-Wind, Inc., from Babylon, N. Y.; and charging that it was adulterated and misbranded. One portion was labeled in part: (Sticker on package) "Checkers Mal Newburg Co. New York, N. Y.," and the remainder was labeled in part: (Sticker on checkerboard) "Contents: 2 Books 1 Puzzle 1 Writing Kit 1 Pencil 1 Checkers 1 Lb. Candy."

The article was alleged to be adulterated (9 cases) in that it consisted in whole or in part of a filthy substance, and (47 dozen cases) in that it consisted in whole or in part of a filthy and decomposed substance and was otherwise unfit for food.

One lot (47 dozen packages) was alleged to be misbranded in that the statement "Net Weight 1 Lb or Over" was false and misleading as applied to an article which was short weight, and in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents.

On November 9, 1943, and June 2, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5589. Misbranding of gift packages. U. S. v. R. L. Albert & Son, Inc. Plea of not guilty. Tried to a jury. Verdict of guilty. Fine $1,000 on count 1; sentence suspended on counts 2 to 5, inclusive. (F. D. C. No. 9622. Sample Nos. 19616–F, 20121–F, 31913–F, 32699–F, 36960–F.)

On May 13, 1943, the United States attorney for the Southern District of New York filed an information against R. L. Albert & Son, Inc., New York, N. Y., alleging shipment within the period from on or about October 16, 1942, to January 26, 1943, from the State of New York into the States of Massachusetts, Ohio, and Maryland, of quantities of gift packages that were misbranded.

The product in three of the shipments was labeled in part: "Send-A-Song Gift Pack." It was alleged to be misbranded (1) in that the statement "1 Lb. 9 Oz.," borne on the boxes, was false and misleading since the boxes contained less than the declared amount; (2) in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents, and the variation between the statement of the quantity of the contents displayed on the label and the quantity actually contained in the box was unreasonable; and (3) in that its label failed to bear the place of business of the manufacturer, packer, or distributor. Misbranding was alleged with respect to the following items contained in the package: Argentina Gruyere process cheese, in that the statement "1 Oz.," borne on the package, was false and misleading since the packages contained less than 1 ounce, and in that it was food in package form and its label failed to bear an accurate statement of the quantity of the contents in terms of weight and the variation was unreasonable; peanut butter, in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents, since the label failed to bear any statement of the quantity of the contents; cherry and raspberry jellies, in that they were imitations of other foods and their labels failed to bear, in type of uniform size and prominence, the word "imitation," and, immediately thereafter, the names of the foods imitated, and in that they purported to be and were represented as foods for which a definition and standard of identity has been prescribed by regulations promulgated pursuant to law but failed to conform to such definition and standard of identity, since they had been made from a mixture composed of less than 45 parts by weight of one of the fruit juice ingredients to each 55 parts by weight of one of the optional saccharine ingredients specified in the regulations; apple, raspberry, and lime jellies, in that the statement "2 Oz.," borne on the jars, was false and misleading since the jars contained less than 2 ounces, and in that they were in package form and their labels failed to bear an accurate statement of the quantity of the contents; apple and lime jelly, in that they contained artificial coloring and failed to bear labeling stating that fact; lime jelly only, in that its label did not bear the common or usual name of each ingredient.

One shipment was labeled "Library of Games." It was alleged to be misbranded in that the statement "2 Lb. 4 Oz.," borne on the package, was false and misleading and in that it failed to bear an accurate statement of the quantity of the contents. One item in the package, black cherry jam, was labeled "2 Ozs. Net," but weighed less than 2 ounces net and was also deficient in fruit juice. It was alleged to be misbranded because of short weight and failure

to conform with the regulations in the same respect as the cherry jelly and raspberry jelly referred to above. One item in the package, peanut butter, was alleged to be misbranded because of failure of the label to bear any statement of the quantity of the contents.

One shipment was labeled "Net 1 Lb. 10 Oz.," together with a statement of the ingredients on the outside of the package. It was alleged to be misbranded because the statement "1 Lb. 10 Oz." was false and misleading, and because of failure to bear an accurate statement of the quantity of the contents. Two items in the box, grape flavor apple jelly, and Damson plum jelly, did not conform to the definition and standard for jellies, and were alleged to be misbranded in the same respect as the substandard jellies previously referred to. The Damson plum jelly was alleged to be misbranded further in that its label bore no statement of the quantity of the contents. The grape flavor apple jelly and a product labeled "Altray Mar–Zee–Pon" were alleged to be misbranded further in that the statements "2 Oz.," with respect to the former, and "6⅔ ounces," with respect to the latter, were false and misleading since the jar and box contained less than these amounts; also because of failure of the labels to bear an accurate statement of the quantity of the contents.

On August 26, 1943, the defendant having entered a plea of not guilty, the case came on for trial before the court and a jury. Evidence was introduced on behalf of the Government and the defendant; the trial concluded on August 28, 1943, and the jury returned a verdict of guilty on the following charges: Count 1, net weight of boxes, the labeling on the peanut butter and charge regarding quality of cherry jelly; count 2, net weight of the boxes, weight of the black cherry jam, quality of the black cherry jam and labeling of the peanut butter; count 3, net weight of the boxes, weight of the apple jelly, raspberry jelly and lime jelly, and quality of the apple jelly, raspberry jelly and lime jelly; count 4, net weight of the boxes, weight of the raspberry and lime jelly, quality of the raspberry and lime jelly; count 5, weight of the grape flavor apply jelly and Damson jelly, also quality of the same jellies. The defendant was fined $1,000 on count 1, and sentence was suspended on the remaining counts.

5590. Misbranding of gift packages. U. S. v. U. S. Candy & Food Corporation. Plea of guilty. Fine of $750 to cover counts 1, 2, and 6 of the information; imposition of sentence suspended on remaining counts 3, 4 and 5. (F. D. C. No. 8833. Sample Nos. 31756–F, 31858–F, 31909–F, 31910–F, 41601–F, 41603–F, 41606–F.)

These products were short of the declared weight.

On May 13, 1943, the United States attorney for the Southern District of New York filed an information against the U. S. Candy & Food Corporation, New York, N. Y., alleging shipments within the period from on or about October 24, to November 17, 1942, from the State of New York into the State of Ohio of quantities of gift packages which were misbranded. The article was labeled in part: "Victory Snack-Pack A Treat From Home * * * Net Weight 3¾ Lbs. [or "Net Weight 2 Lbs."]."

The article was alleged to be misbranded in that the statements "3¾ Lbs.," and "Net Weight 2 Lbs.," borne on the label, were false and misleading since the boxes labeled "Net Weight 3¾ Lbs." contained substantially less than 3¾ pounds, and the boxes labeled "Net Weight 2 Lbs." contained substantially less than 2 pounds net weight. The article was alleged to be misbranded further in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, and the variation between the statement of quantity borne on the label and the quantity actually contained in the box was unreasonable. One shipment was alleged to be misbranded further in that its container was so made, formed, and filled as to be misleading since underneath one of the items, a box of Crunch-ettes, was a large empty space in which food could have been packed, and the contents of the package had been packed with excessive packing medium, excessive paper cups and cardboard dividers, and by reason of the empty space and excessive packing medium the package contained a substantially smaller quantity of food than its outward appearance would indicate was contained therein.

On November 23, 1943, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $750 which covered counts 1, 2, and 6 of the information and suspended imposition of sentence on the remaining 3 counts.

5591. Misbranding of gift packages. U. S. v. 20 Packages of an article labeled in part "#687," and 20 Packages labeled in part "#722." Default decree of condemnation. Product ordered distributed to charitable institutions. (F. D. C. No. 9898. Sample Nos. 44954–F, 44955–F.)

This product contained excessive packing medium; its labeling consisted of stickers inconspicuously pasted on the bottom of the packages, and one lot was short of the weight declared.

On May 6, 1943, the United States attorney for the District of Connecticut filed a libel against the above-identified product at Hartford, Conn., alleging that the article had been shipped in interstate commerce on or about March 29, 1943, by Cheerio Specialties from Brooklyn, N. Y.; and charging that it was misbranded.

The article was alleged to be misbranded in that the containers were so filled as to be misleading since the paper stuffing occupied an excessive amount of the available space and this stuffing was not visible to the purchaser; and in that the name and place of business of the manufacturer, packer, or distributor, and the statement of the quantity of the contents, and the ingredient statement required by the Act to appear on the label or labeling were not prominently placed thereon with such conspicuousness as to render them likely to be read by the ordinary individual under customary conditions of purchase and use.

A portion of the article was alleged to be misbranded further (1) in that the statement "Not less than 15 oz." was false and misleading as applied to an article that was short-weight; and (2) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On June 26, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

5592. Misbranding of gift packages. U. S. v. 21, 38, and 136 Gift Packages of Food and Confectionery. Default decree of condemnation and destruction. (F. D. C. No. 9137. Sample Nos. 13251–F to 13253–F, incl.)

A portion of the article (21 packages and 38 packages) consisting of assorted food and confectionery, was packed in boxes the bottoms of which were filled with green paper "straw" occupying about one-half of the volume of the boxes when packed. The remainder of the article (136 packages) was packed in folding checker-board boxes, each containing a snug-fitting cellophane-covered fiber carton filled with candy or with an assortment of food and confectionery, together with a box of checkers, and the bottom of the fiber carton contained green paper "straw" occupying about one-fourth of the carton's volume.

On or about January 18, 1943, the United States attorney for the Western District of Washington filed a libel against 21, 38, and 136 gift packages of food and confectionery at Seattle, Wash., alleging that the article has been shipped in interstate commerce on or about October 29 and 30, 1942, from Babylon, N. Y., and New York, N. Y., by A. Newberg & Co.; and charging that it was misbranded. A portion of the article was unlabeled and the remainder was labeled in part: "Net Weight 1¼ Lbs.," or "Net Weight 3¼ Lbs."

The article was alleged to be misbranded in that its container was so made, formed, and filled as to be misleading since the boxes could contain more food than was packed in them; and in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient. Portions of the article were alleged to be misbranded further in that the statements "Net Weight 1¼ Lbs.," or "Net Weight 3¼ Lbs." were false and misleading as applied to an article that was short weight; and in that it was in package form and did not bear a label containing an accurate statement of the quantity of the contents. Portions were alleged to be misbranded further in that the statement of the quantity of contents and the name and place of business of the manufacturer, packer, or distributor, required by law to appear on the label, were not prominently placed thereon with such conspicuousness as to render them likely to be read by the ordinary individual under customary conditions of purchase.

On September 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FOOD FOR SPECIAL DIETARY USES *

5593. Adulteration and misbranding of "Bragg Mira–Cal." U. S. v. 108 Packages of "Bragg Mira–Cal." Default decree of condemnation and destruction. (F. D. C. No. 10179. Sample No. 757–F.)

This product was represented in its labeling as containing, in 3 wafers, 800

*See also Nos. 5407, 5482, 5562.

International Units of vitamin D, which is double the minimum daily requirement for vitamin D for persons regardless of age, whereas it contained not more than 400 U. S. P. units of vitamin D per 3 wafers. (By definition, 1 International Unit of vitamin D is equivalent to 1. U. S. P. unit of vitamin D.) The labeling was further objectionable because of false and misleading claims regarding the availability of calcium in the ordinary diet, and because of failure to bear the information regarding the mineral properties of the article required by regulations prescribing the labeling of dietary foods.

On July 9, 1943, the United States attorney for the Northern District of Illinois filed a libel against 108 packages of "Bragg Mira-Cal" at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about May 5 and 13, 1943, by the Live Food Products Co. from Burbank, Calif.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, vitamin D, had been in whole or in part omitted or abstracted therefrom.

The article was alleged to be misbranded in that the statements appearing on its label, "Three wafers daily provide the following proportion of the minimum daily adult and children's requirements for * * * Vitamin D 200% Three wafers provide * * * 800 Inter. Units Vitamin D," were false since they were incorrect. The article was alleged to be misbranded further in that the statements appearing in the circular entitled "Facts about Calcium Deficiency," enclosed in the retail carton with the article, "Now—Because of rationing—You must provide the body with extra calcium. * * * The restrictions now placed on these products for civilian consumption make it necessary to provide this vita mineral in additional quantities from other sources. * * * Yet calcium is the most difficult mineral for the body to absorb and retain," were false and misleading since the statements represented and suggested that under the present circumstances it was extremely difficult for the ordinary individual to obtain an adequate intake of calcium without resorting to supplemental diet, and that calcium was the most difficult mineral for the body to absorb and retain, whereas it is not difficult to obtain adequate intake of calcium through the consumption of foods readily available, and calcium is not difficult for the body to absorb and retain. The article was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses for pregnant or lactating women by reason of its calcium content, and its label failed to bear such information concerning its mineral properties as had been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear a statement of the proportion of the minimum daily requirement of calcium for pregnant and lactating women furnished by a specified quantity of the product when consumed as directed during a period of 1 day.

On September 17, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5594. Adulteration and misbranding of Ray-D, Tri-Nutron, and Nion B Complex Tablets. U. S. v. 143 Dozen and 14 Dozen Packages of Ray-D Tablets, 150 Dozen and 24 Dozen Bottles of Tri-Nutron Tablets, and 19 Dozen, 51 Dozen, and 8 Dozen Bottles of Nion B Complex Tablets. Default decrees of condemnation and destruction. (F. D. C. Nos. 7901, 7905, 7906. Sample Nos. 64965–E to 64967–E, incl.)

Biological examination showed that the Ray-D Tablets contained not more than 250 U. S. P. units of vitamin D per tablet, and that the Tri-Nutron Tablets contained not more than 125 U. S. P. units of vitamin D per tablet. Microbiological examination of the Nion B Complex Tablets indicated that each tablet contained not more than 440 micrograms of riboflavin.

On or about July 15 and 20, 1942, the United States attorney for the Western District of New York filed libels against 143 dozen 200-tablet and 14 dozen 1,000-tablet packages of Ray-D Tablets, 150 dozen 100-tablet and 24 dozen 500-tablet bottles of Tri-Nutron Tablets, and 19 dozen 40-tablet, 51 dozen 100-tablet bottles, and 8 dozen 250-tablet bottles of Nion B Complex Tablets at Buffalo, N. Y., alleging that the articles had been shipped on or about February 11 and 19, 1942, from Los Angeles, Calif., by the Nion Corporation; and charging that they were adulterated and misbranded.

The Ray-D and Tri-Nutron Tablets were alleged to be adulterated in that a valuable constituent, vitamin D, had been in whole or in part omitted therefrom.

The Ray-D Tablets were alleged to be misbranded (1) in that the statement "Each tablet contains Vitamin D, 500 U. S. P. XI Units," appearing in their labeling, was false and misleading as applied to articles containing not more than 250 U. S. P. units of vitamin D per tablet; and (2) in that the statements

appearing in the circular entitled "Vitamins and Your Health," inserted in each package, which represented and suggested that the tablets contained a special strain of yeast of high vitamin content, that they were an effective treatment for deficiency diseases, and that vitamin D and the vitamin B complex were needed as supplements to all diets were false and misleading since the tablets did not contain a special strain of yeast of high vitamin content, were not an effective treatment for deficiency diseases, and vitamin D and the vitamin B complex were not usually needed as such supplements.

The Tri-Nutron Tablets were alleged to be misbranded in that the statement in their labeling, "Each Tablet Contains Vitamin D . . . 250 U. S. P. XI units," was false and misleading as applied to articles that contained not more than 125 U. S. P. units of vitamin D per tablet.

The Nion B Complex Tablets were alleged to be adulterated in that a valuable constituent, riboflavin, had been in whole or in part omitted therefrom.

They were alleged to be misbranded in that the statement appearing in their labeling, "Each tablet contains * * * Riboflavin (B_2) 666 micrograms," was false and misleading as applied to an article that contained not more than 440 micrograms of riboflavin per tablet; and in that the statement "Three tablets daily furnish * * * the minimum adult daily requirements of riboflavin (G : B_2)," was false and misleading since three tablets would furnish less than 2.0 milligrams, the minimum daily adult requirements.

On November 9, 1942, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5595. Adulteration and misbranding of wheat germ. U. S. v. 50 Cases of Wheat Germ. Decree of condemnation and destruction. (F. D. C. No. 10364. Sample No. 37693–F.)

This product consisted of about 64 percent of wheat germ together with flour and bran. It yielded 2,550 International Units of vitamin B_1 and 2.75 milligrams of vitamin B_2 (G) per pound.

On August 6, 1943, the United States attorney for the Eastern District of Michigan filed a libel against 50 cases, each containing 12 1-pound packages, of wheat germ at Detroit, Mich., alleging that the article had been shipped in interstate commerce by Elam Mills, Inc., from Chicago, Ill., on or about April 16, 1943; and charging that it was adulterated and misbranded. The article was labeled in part: (Packages) "Elam's Old Fashioned Natural Wheat Germ."

The article was alleged to be adulterated (1) in that a valuable constituent, wheat germ, had been in part omitted therefrom; (2) in that a mixture of wheat germ, flour, and bran had been substituted in whole or in part for wheat germ; and (3) in that flour and bran had been added thereto or mixed or packed therewith so as to reduce its quality or strength.

The article was alleged to be misbranded in that certain statements in the labeling which represented and suggested that it was rich in vitamin G, contained 3,000 International Units of vitamin B_1 per pound, and, when taken regularly, would assure vitamin intake, give a higher vitamin potency to ordinary flour, and correct vitamin deficiencies with or without the supervision of a physician; that it was a corrective for various ailments and could be used as a corrective protective food; and that it consisted of wheat germ, were false and misleading since it was not rich in vitamin G, did not contain 3,000 International Units of vitamin B_1 per pound, and, when taken regularly, would not assure adequate vitamin intake, give higher vitamin potency to ordinary flour or correct vitamin deficiencies with or without the supervision of a physician, was not a corrective for various ailments and could not be used as a corrective, protective food and did not consist of wheat germ.

The article was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses by reason of its vitamins B_1, E, and G (B_2), and iron content, and its label failed to bear such information concerning its vitamin, mineral, and other properties as had been determined to be and by regulations prescribed as necessary fully to inform purchasers as to its value for such uses, since its label did not bear a statement of the proportion of the minimum daily requirements for vitamin B_1, vitamin G (B_2), and iron supplied by the food when consumed in a specific quantity during a period of 1 day; nor did the label bear a statement of the quantity of vitamin E in a quantity of the food customarily consumed during a period of 1 day or a quantity reasonably suitable for consumption within such period, and a statement that the need for vitamin E in human nutrition has not been established.

On October 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5596. Adulteration and misbranding of soy milk. U. S. v. 16 Cases of Soy Milk. Default decree of condemnation and destruction. (F. D. C. No. 9834. Sample No. 44704–F.)

This product was represented on its label as containing 0.5 gram of calcium, 0.5 gram of phosphorus, and 7.5 milligrams of iron per pint. Examination of a sample showed that it contained not more than 0.24 gram of calcium, 0.21 gram of phosphorus, and 3.78 milligrams of iron per pint.

On April 22, 1943, the United States attorney for the Southern District of New York filed a libel against 16 cases, each containing 12 1-pint cans, of Battle Creek Soy Milk, alleging that the article had been shipped in interstate commerce on or about March 5, 1943, by the Battle Creek Food Company from Battle Creek, Mich.; and charging that it was adulterated and misbranded. The article was labeled in part: "Ingredients: Water, Soy Beans, Tri-Calcium Phosphate, Hydrogenated Soy Oil, Lactose, Iodized Salt, Saccharated Iron (ferric oxide), Carotene, Ascorbic Acid, Riboflavin, Vitamin D (activated ergosterol in oil), Vitamin B_1 (Thiamin Hydrochloride)."

The article was alleged to be adulterated in that valuable constituents, calcium, phosphorus, and iron, had been in whole or in part omitted or abstracted.

It was alleged to be misbranded in that the statements "An 8 ounce glass (½ pint) Battle Creek Soy Milk furnishes the following percentages of the minimum daily requirements: * * * Iron (Fe) for an adult 33⅓% Iron (Fe) for a child 1–6 50% Iron (Fe) for pregnancy and lactation 25% Calcium (Ca) and Phosphorus (P) for any person 33⅓% Calcium (Ca) and Phosphorus (P) for pregnancy and lactation 16⅔%," were false and misleading as applied to a product that did not furnish, in each eight ounce glass (½ pint), the percentage amounts of the minimum daily requirements of iron, calcium, and phosphorus stated; and in that the name "Soy Milk" was false and misleading when applied to a product which consisted of water, soy beans, tri-calcium phosphate, and the other ingredients specified on the label.

On June 10, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5597. Misbranding of Williams anti-gray hair vitamin. U. S. v. 11 Dozen Pint Bottles and 39⅙ Dozen 3-Ounce Bottles of Williams Anti-Gray Hair Vitamin. Default decree of destruction. (F. D. C. No. 8620. Sample No. 7855–F.)

Examination showed that this product contained approximately 80 milligrams of calcium pantothenate per fluid ounce.

On October 22, 1942, the United States attorney for the District of Minnesota filed a libel against 11 dozen pint bottles and 39⅙ dozen 3-ounce bottles of Williams anti-gray hair vitamin at various drug stores in St. Paul and Minneapolis, Minn., alleging that the article, which had been consigned by the Williams S. L. K. Laboratories, had been shipped in interstate commerce on or about August 24 and September 1 and 21, 1942, from Milwaukee, Wis.; and charging that it was misbranded.

The article was alleged to be misbranded in that the statements appearing in its labeling which represented and suggested that it was effective in restoring the natural color to gray hair, and that there was scientific evidence that it was effective for such purposes in a substantial majority of the cases in which it was used, were false and misleading since the article was not so effective and there was no scientific evidence which demonstrated that it was effective for such purpose.

On December 10, 1942, no claimant having appeared, judgment was entered ordering the destruction of the product.

5598. Misbranding of Alberty vitamin-mineral capsules. U. S. v. 34 Packages of Alberty Vitamin-Mineral Capsules. Decree of condemnation and destruction. (F. D. C. No. 8427. Sample No. 22906–F.)

This product contained two different-colored capsules, one designated as "Dark" and one designated as "Tan." The dark capsules were represented as containing specified amounts of vitamins A, B_1, G, C, D and E, and the tan capsules were represented to contain specified amounts of various minerals.

On September 28, 1942, the United States attorney for the Eastern District of Pennsylvania filed a libel against 34 packages, each containing 150 Alberty vitamin-mineral capsules, at Philadlephia, Pa., alleging that the article had been shipped on or about April 7, 1942, from Hollywood, Calif., by Alberty Food Products; and charging that it was misbranded in that the statements appearing in its labeling representing that the dark capsules contained vitamins and that the tan capsules contained minerals were false and misleading, since the dark capsules did not contain vitamins but contained minerals and the tan capsules did not contain minerals but did contain vitamins.

On October 19, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5599. Misbranding of Sea Tabs. U. S. v. 42 Bottles, 41 Bottles, and 31 Bottles of Sea Tabs. Default decree of condemnation and destruction. (F. D. C. No. 10248. Sample Nos. 19223–F, 19224–F.)

On July 14, 1943, the United States attorney for the District of Massachusetts filed a libel against 42 bottles, each containing 150 tablets, 41 bottles, each containing 300 tablets, and 31 bottles, each containing 1,000 tablets, of Sea Tabs at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about February 3 and April 9, 1943, by the Natural Health Products Co. from New York, N. Y.; and charging that it was misbranded. The article was labeled in part: "Sea Tabs Brand of Kelp * * * Rich in Organic Iodine."

It was alleged to be misbranded in that certain statements and designs appearing in the labeling, the circular entitled "The Ocean Yields its Richest Treasure," accompanying the article, were false and misleading since they represented and suggested that the article would be effective in restoring health, increasing strength, overcoming weakness, nervousness, and sickness, and would be of value in supplying minerals of significant nutritional values, whereas the article would not be effective for such purposes, nor would it supply nutritionally significant quantities of minerals with the exception of iodine. It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses by reason of its iodine, iron, magnesium, manganese and copper content, and its label failed to bear such information concerning its mineral properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label did not bear a statement of the proportion of the minimum daily requirements of iron and iodine and the quantity of magnesium, manganese and copper furnished by a specified quantity of the product when consumed as directed during a period of 1 day.

On September 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5600. Misbranding of Pro-Ten Meat Extender. U. S. v. 249 Cases of Pro-Ten Meat Extender. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 8864. Sample No. 7065–F.)

This product contained ground soy beans, rolled oats, and celery seed, and had a protein content of approximately 33 percent.

On November 16, 1942, the United States attorney for the Eastern District of Missouri filed a libel against 249 cases of Pro-Ten Meat Extender at St. Louis, Mo., alleging that the article had been shipped in interstate commerce by the Thomson & Taylor Division of The Warfield Co. from Chicago, Ill., on or about November 3, 1942; and charging that it was misbranded.

It was alleged to be misbranded in that the statements appearing in its labeling which represented and suggested that the article was the nutritive equivalent of meat and, when used as directed, would save meat without sacrificing any of the nutritive values customarily furnished to the diet by meat; that it had, in the comparisons made in the labeling with certain meats, an equal or greater nutritive value than certain meats with which it was compared, and that it would insure strength and body growth, better sight, resistance to colds, longevity, sound nerves, good digestion, proper functioning heart, healthy skin, strong teeth and bones, and would prevent tiredness and loss of appetite, were misleading since the article was not the nutritive equivalent of meat and, when used as directed, would not save meat without sacrificing any of the nutritive values customarily furnished to the diet by meat; the article, in the comparisons made, had not an equal or greater nutritive value than meat since the comparisons were made on a moisture-free basis for the article and failed to take into account the fact that it was necessary to add water to the article in preparation, and that meats furnish desirable fats to the diet which were not supplied by the article; and it would not insure or accomplish the results stated or implied, but was merely a mixture of common foods. It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary use, and its label failed to bear such information concerning its vitamin and mineral properties as had been determined to be and by regulations promulgated as, necessary fully to inform purchasers as to its value for such uses.

On November 27, 1942, The Warfield Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled to comply with the law under the supervision of the Food and Drug Administration.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 5401 TO 5600

PRODUCTS

N. J. No.

Alimentary pastes__ 5413–5416, 5584–5586
Bakery products____ 5417–5424, 5577–5580
Baking powder _____ 5571
Barbecue sauce_____ 5581
See also. Hot sauce.
Barley_____ 5435
Beet(s), canned_____ 5520, 5521
pulp, dried_____ 5492
Beverages and beverage materials_____ 5401–5412
Biscuits _____ 5418
Blackberries, canned _____ 5506
Blueberries, fresh_____ 5512
Bread_____ 5417, 5423
Buns_____ 5417
Butex _____ 5572
Butter_____ 5454–5473
flavoring_____ 5572
Cabbage _____ 5522
Cakes _____ 5419
Candy and confections____ 5440–5449, 5577
toy packages_____ 5445–5447
See also. Gift packages.
Celery seed _____ 5570
Cereal and cereal products_____ 5413–5439
Cheese_____ [1] 5474–5480
sandwiches_____ 5578
Cherries, black, dried_____ 5509
Chicken fat_____ 5539, 5540
chicken-noodle soup mix_____ 5586
Chocolate, sugars, and related products_____ 5440–5453
chocolate paste_____ 5450
Clams, frozen _____ 5502
Cocoa confection_____ 5449
Coconut, shredded_____ 5555
Coffee, beans, green_____ 5401
stretcher_____ 5408, 5409
substitute_____ 5407, 5410, 5411
Cola sirup_____ 5402
Cookies_____ 5424
Corn, canned_____ 5523
flakes _____ 5436
meal_____ 5425, 5426
Crab meat _____ 5503
Cracker(s)_____ 5420, 5421
sandwiches_____ 5577–5580
Croakers, frozen_____ 5494
Currants, dried_____ 5510
Dairy products_____ 5454–5483
Dog food _____ 5491
Doughnuts_____ 5417
Egg-Dough Stabilizer _____ 5438
Egg-O-Milk Co.'s Blend_____ 5573
Eggs, dried _____ [1] 5484–5486
frozen_____ [2] 5487–5490
shell _____ 5490
Feed_____ 5491, 5492
Fish and shellfish_____ 5493–5505
Flour_____ 5427–5434
cereal binder_____ 5432
enriched_____ 5428, 5433
sausage_____ 5432
self-rising_____ 5433
whole wheat _____ 5434
French dressing _____ 5563

N. J. No.

Fruits and vegetables_____ 5506–5538
fruit, canned_____ 5506–5508
dried_____ 5509–5511
fresh_____ 5512
frozen_____ 5513–5516
miscellaneous_____ 5517–5519
tomatoes and tomato products_____ 5531–5538
vegetables and vegetable products_____ 5520–5530
Gift packages of food_____ [3] 5587–5592
containing candy only_____ 5443, 5444
Grape juice drink_____ 5412
pulp, frozen_____ 5518
Herring, frozen_____ 5496
Honey_____ 5451
Hot sauce_____ 5582
See also. Barbecue sauce.
Ice cream powder_____ 5576
Jam and preserves_____ 5517
Lemon juice, powdered_____ 5403
Lobster, canned_____ 5505
Macaroni_____ 5415, 5416
Meat and meat products__ 5539–5542, 5586
extender _____ 5600
Milk, evaporated_____ 5483
Molasses residuum_____ 5452
Mullets, frozen_____ 5495, 5496
Mustard seed_____ 5565, 5566
No-Bak Preservative _____ 5574
Noodle(s), egg_____ 5413, 5414
soup mixes_____ 5584–5586
Nut Krunch and Nut Krunch Topping_____ 5556
Nut(s) and nut products_____ 5543–5556
meats, mixed_____ 5550
Ocean pout, frozen_____ 5496, 5497
Oceanburger, canned _____ 5499
Oils and fats_____ 5557–5564
Oleomargarine_____ [3] 5481, 5482
Olive oil_____ 5557–5560
Orange drink_____ 5404
Orangeade concentrate_____ 5405
Oysters, canned_____ 5504
Peaches, canned_____ 5507, 5508
Peanut(s) _____ 5551
butter _____ 5552–5554
sandwiches_____ 5579, 5580
Peas, canned_____ 5524–5529
Pecans _____ 5543–5545
Pepper, cayenne_____ 5567, 5568
Pies _____ 5422
Porgies, frozen_____ 5493
Poultry_____ 5541, 5542
Preservative _____ 5574
Preserves. *See* Jam and preserves.
Pro-Ten Meat Extender_____ 5600
Prune concentrate juice_____ 5519
Puddine _____ 5575
Raisins _____ 5511
Raspberries, red, frozen_____ 5516
Rice _____ 5439
Rye meal_____ 5437
Salad dressing_____ 5561–5564
Salmon, canned_____ 5498
Sandwich spread _____ 5564
Sauerkraut, canned_____ 5530

[1] 5478, 5485. Contains opinion of the court.

[2] 5489. Seizure contested.

[3] 5481, 5589. Prosecution contested.

	N. J. No.
Sea Tabs	5599
Sesame seed	5569
Shrimp, canned	5499
cooked	5500
frozen	5501
Spices	5565–5570
Soup mixes	5584–5586
Soy milk	5596
sauce	5583
Special dietary uses, foods for	5407, 5482, 5562, 5593–5600
Strawberries, frozen	[1] 5513–5515
Sugar, powdered	5453
Tea	5406
Tomato(es), canned	5531, 5532
catsup	5533
paste	5434, 5535
puree	5536, 5537
sauce	5538
soup	5520
Turkeys, dressed	5541
Vegetables, mixed, canned	5520
soup	5520
mix	5584
See also. Fruits and vegetables.	
Vitamin preparations	5593–5598
Walnuts	5546–5549
Wheat germ	5595
Miscellaneous food products	5571–5600

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.
Acker Pecan Products Co.:	
pecan meats	5544
Agash Refining Corp.:	
French dressing	5563
Albert, R. L., & Son, Inc.:	
gift packages	[2] 5589
Alberty Food Products:	
vitamin-mineral capsules	5598
Aldama Products Co.:	
noodle soup	5585
American Breddo Corp.:	
Egg-Dough Stabilizer	5438
American Dietaids:	
coffee substitute	5407
American Tea & Coffee Co., Inc.:	
coffee stretcher	5408
Apte Brokerage Co.:	
canned rock lobster	5505
Apte Bros. Canning Co.:	
canned tomatoes	5531
Armour & Co.:	
butter	5471
evaporated milk	5483
Armour Creameries:	
butter	5459, 5471
Atlantic Chemical Co., Inc.:	
imitation olive oil	5558
Ballard & Ballard Co.:	
flour, enriched, and self-rising flour	5433
Banquet Better Foods:	
butter	5473
Barnes Milling Co.:	
flour	5430
Barron, J. N.:	
cabbage	5522
Barsotti, J., & Co.:	
mixed nut meats	5550
Battle Creek Food Co.:	
soy milk	5596
Bay State Milling Co.:	
rye meal	5437
Beatrice Creamery Co.:	
butter	5460
Berger Foods Co.:	
mustard seed	5565
Bonner Packing Co.:	
dried currants	5510
Breakfast Club Coffee, Inc.:	
barbecue sauce	5581
Breakfast Club Sales, Inc.:	
barbecue sauce	5581
Brocton Preserving Co.:	
tomato paste	5535
Burgess Canning Co.:	
cooked peeled shrimp	5500
Burry Biscuit Corp.:	
sesame seed	5569
California Orange Juice Co.:	
No-Bak Preservative	5574
Candyland Co.:	
candy and toy packages	5446
Canine Vita Candy Co., Inc.:	
dog food	5491
Canova Foods, Inc.:	
Spices	5570
Caraco, E. *See* Caraco, Elizer.	
Caraco, Elizer:	
canned salmon	5498
Cardinet Candy Co., Inc:	
candy	5442
Carthage Creamery Co.:	
butter	5461
Cascade Frozen Foods, Inc.:	
frozen strawberries	5513
Cawthon, J. E.:	
corn meal	5425
Chatfield, Rey:	
canned peaches	5507
Cheerio Specialties:	
gift packages	5591
Cheramie, A. N.:	
frozen shrimp	5501
Clark, A.:	
blueberries	5512
Cloverdale Coop. Berry Assoc.:	
frozen strawberries	5515
Clyman Canning Co.:	
canned sliced beets	5521
Cold Spring Fish & Supply Co., Inc.:	
frozen fish	5493
Colonial Stores, Inc.:	
canned tomatoes	5531
Commercial Importing Co.:	
green cero tea	5406
Commercial Milling Co. *See* Henkel Flour Mills.	
Community Creamery Co.:	
cheese	5480
Consumers Peanut Co.:	
shelled peanuts	5551
Continental Nut Co.:	
black walnut kernels	5548
Cowan, A. B.:	
bakery products	5417
Cowan Baking Co. *See* Cowan, A. B.	
Cream O Specialty Co.:	
peanut butter	5554
Crystal Produce Co.:	
cabbage	5522
Daniel, Earl:	
canned peas	5525
Dauber Bros.:	
butter	5457
Davis Milling Co., Inc:	
corn meal	5426
DeLuxe Brands Co.:	
chicken-noodle soup mix	5586
Decatur Milling Co.:	
corn flakes	5436
Des Moines Cooperative Dairy:	
dried eggs	5486
Dickinson Co.:	
blackberry jam and strawberry preserves	5517
Diebert Bros. & Snyder:	
raisins	5511
Dingus, M. G.:	
black walnut kernels	5549
Dupuy Storage and Forwarding Co.:	
green coffee beans	5401

[1] 5514. Seizure contested.
[2] Prosecution contested.

Durkee Famous Foods, Inc.: N. J. No.
cayenne pepper 5568
Eastern Shore Canning Co.:
canned peas 5526, 5528
Egg-O-Milk Co.:
Egg-O-Milk Co.'s Blend 5573
Elam Mills, Inc.:
wheat germ 5595
European Olive Oils Co., Inc.:
olive oil 5557
Evans Novelty Co.:
candy 5443
Fairmont Creamery Co.:
butter 5462
Farmer's Trading Co.:
mustard seed 5566
Fascination Candy Co.:
candy 5445
Filigree Quality Foods, Inc.:
egg noodles 5413
Filippone, B., & Co.:
macaroni 5415
Fish, S. T., & Co.:
shelled pecans 5543
Fisher Milling Co.:
egg noodles 5413
Flavorich Juice Co.:
orange drink 5404
Fleetwood Baking Co., Inc.:
cookies 5424
Fralinger's:
candy 5448
Frigid Food Products, Inc.:
frozen red raspberries 5516
Garland, W. E.:
cabbage 5522
General Candy Co.:
candy 5440, 5441
General Foods Sales Co., Inc.:
ice cream powder 5576
General Mills, Eastern Division
See Washburn Crosby Co.
Gillet, Martin, & Co.:
Puddine 5575
Goodman, A., & Sons, Inc.:
soup mixes 5584
Goodman Products Corp.:
baking powder 5571
grape juice drink 5412
Gorton-Pew Fisheries Co., Ltd.:
frozen clams 5502
Greenspan Bros. Co.:
egg noodles 5413
Griffith Laboratories:
cereal binder flour and sausage flour 5432
Harris, P. E., & Co.:
biscuits 5418
Harrison & Jarboe Seafood Co.:
crab meat 5503
Haxton, George W., & Son., Inc.:
frozen grape pulp 5518
Henkel Flour Mills:
whole wheat flour 5434
Hinton Community Co-operative Creamery:
butter 5464
Home Town Stores, Inc.:
flour 5429
Hood Mills Co.:
Egg-O-Milk Co.'s Blend 5573
Household Products Co.:
canned corn 5523
Hunter-Walton Co.:
butter 5465
Hurst Dairy Co.:
cheese 5474
Hurst, Ralph, & Co.:
frozen eggs 5487
Ideal Pure Milk Co.:
butter 5454
Industrial Sales Corp.:
coffee stretcher 5409
Interstate Cotton Oil Refining Co.:
oleomargarine 5482
Irvington Fish and Oyster Co., Inc.:
frozen fish 5494
Jaxon Foods, Inc.: N. J. No.
peanut butter 5552
Jerpe Dairy Products Corp.:
butter 5455
Jessee Baking Co.:
bread 5423
Jones, Howard E., & Co.:
canned corn 5523
Jonesboro Rice Mill Co.:
white rice 5439
K. & C. Tea Co.:
green cero tea 5406
Kalfus, I., Co., Inc.:
Lem-O-Juice 5403
Nut Krunch Topping and Nut Krunch 5556
Kelley, Bob, Food Sales Co.:
peanut butter sandwiches 5579, 5580
Kelley, Madalynn J.:
peanut butter sandwiches 5579
King Kone Corp.:
cheese sandwiches and cheese snacks 5578
Kingan & Co.:
butter 5472
La Ambrosia Industrial:
cocoa confection 5449
La Victoria Sales Co.:
hot sauce 5582
Lakota Farmers Cooperative Creamery Co.:
butter 5466
Langenfeld Dairy Products:
dressed turkeys 5541
Larabee Flour Mills:
flour 5427
Libby, McNeill and Libby:
sauerkraut 5530
Liberty Cola Distributing Co.:
cola sirup 5402
Live Food Products Co.:
Bragg Mira-Cal 5593
Loose-Wiles Biscuit Co.:
biscuits 5418
Lowe, Joe, Corp.:
dried eggs [1] 5485
MacLaughlin, R. I., & Co.:
frozen strawberries [2] 5514
Magnano, A., Co.:
canned peaches 5508
Market Wholesale Grocery Co.:
coffee substitute 5410
Meadolake Foods, Inc.:
oleomargarine 5482
Merchants Creamery Co.:
butter 5472
Montana Mustard Seed Co.:
Mustard seed 5566
Monticello Pecan Co.:
pecan pieces 5545
Morgan City Packing Co.:
cooked peeled shrimp 5500
Morris Fisheries, Inc.:
frozen fish 5496
Moundridge Co-op. Creamery Co.:
butter 5467, 5469
Mt. Airy Canning Co.:
canned blackberries 5506
National Biscuit Co.:
cheese 5475
National Foods, Inc.:
egg noodles 5414
National Fruit Canning Co.:
canned peaches 5508
National Retailer-Owned Grocers, Inc.:
sandwich spreads and salad dressings 5564
National Sugar Refining Co.:
powdered sugar 5453
National Tea Importing Co.:
coffee substitute 5410
Natural Health Products Co.:
Sea Tabs 5599

[1] Contains opinion of the court.
[2] Seizure contested.

Nelson-Ricks Creamery Co.: N. J. No.
butter 5473
New Bedford Fillet Co.:
frozen fish 5497
Newberg, A., & Co.:
gift packages 5592
Newberg-Wind, Inc.:
gift packages 5588
Niles, E. M., Co.:
chicken fat 5539
Nion Corp.:
vitamin tablets 5594
Nomis Corp.:
canned shrimp and canned Oceanburger 5499
Novel Package Corp.:
candy and toy packages 5446
Obrecht, P. Fred'k & Son:
Egg-O-Milk Co.'s Blend 5573
Oostburg Canning Co.:
canned peas 5527
Ossola, J., Co.:
olive oil 5559
Pacific Coast Nut House:
shelled walnuts 5546
Paradise Baking Corp.
pies 5422
Paradise Packing Co.:
grape juice drink 5412
Paulding Sugar Co.:
dried beet pulp 5492
Pemberton Cooperative Creamery Co.:
butter 5468
Peter Fox Sons Co.:
butter 5456, 5464
Pierce, B., & Co., Inc.:
molasses residuum 5452
Pioneer Mills:
flour, enriched, self-rising 5433
Pioneer Specialty Co.:
candy and toy packages 5446
Pixie Flavor Base Co.:
orangeade concentrate 5405
Pleasant Grove Canning Co.:
tomato paste 5534
Portland Egg & Poultry Co.:
frozen eggs [2] 5489
Postel, Ph. H., Milling Co.:
flour 5431
President Products, Inc.:
peanut butter 5554
Priebe & Sons, Inc.:
dried eggs 5486
Produce Exchange:
cabbage 5522
Pure Food Products, Inc.:
shredded coconut 5555
Quaker Oats Co.:
barley 5435
Raisin Syrup Co.:
prune concentrate juice 5519
Ravenwood Creamery:
butter 5457
Rice Beverage Co.:
cola sirup 5402
Richards, Albert, Co., Inc.:
chicken fat 5540
Rising Sun Creamery, Inc.:
butter 5470
Robinson, J. B.:
coffee substitute 5411
Rocky Mountain Cheese Mfg. Co.:
Ricotta cheese 5479
Romano cheese 5476
Rogers Co.:
peanut butter 5553
Russum, W. H.:
cabbage 5522
Sage Chemical Co. *See* Silverstein, Sam.
Sardik Food Products Corp.:
tomato paste 5535
Schoenfeld, H., & Sons, Inc.:
cayenne pepper 5567
Seacoast Packing Co.:
canned oysters 5504
Shreveport Grain & Elevator Co., Inc.:
corn meal 5425
Silverstein, Sam:
olive oil 5557
Simon, S. K.:
shelled pecans 5543
Sisk, A. W., & Son:
canned peas 5528
canned tomatoes 5532
Smith Canning Co.:
tomato puree 5536
Smith, J. R., Sales Co., Inc.:
dog food 5491
Southern Edible Products Co.:
shelled pecans 5543
Southern Rice Sales Co., Inc.:
white rice 5439
Southgate Brokerage Co., Inc.:
canned peas 5525
Southgate Foods:
canned peas 5525
Springbrook Packing Co.:
dried black cherries 5509
Stamper, F. M.:
dried eggs 5484
Stonebraker, L. L.:
cheese 5477
Stonehill Creamery Co.:
butter 5466
Sugar Creek Creamery Co.:
butter 5463
Summit Packing Co.:
tomato catsup 5533
Swidler, Joe:
tomato puree 5537
Swinson Food Products. *See* Swinson, H. P.
Swinson, H. P.:
crackers 5420
Sylvan Co.:
candy 5444
Tacoma Ice Co.:
frozen strawberries [2] 5514
Tampa Macaroni Co., Inc.:
macaroni 5416
Tasty Food Co.:
salad dressing 5561
Tavern Fruit Juice Co., Inc.:
honey, raspberry flavored 5451
Terry, B. L.:
cracker sandwiches and confections 5577
Terry, B. L., Co. *See* Terry, B. L.
Thomas & Co.:
canned peas 5524
Thomson & Taylor. *See* Warfield Co.
Tipton Cheese Co.:
cheese [1] 5478
Topmost General Grocer Co.:
salad dressing 5562
Tri-State Butter Co.:
butter 5458
Turner & Pease Co., Inc.:
sandwich spreads and salad dressings 5564
Turner Manufacturing Co., Inc:
cakes 5419
U. S. Candy and Food Corp.:
gift packages 5587, 5590
U. S. Cold Storage Co.:
poultry 5542
U. S. Macaroni Manufacturing Co.:
soy sauce 5583
Uddo and Taormina Co.:
tomato sauce 5538
Union Biscuit Co. *See* United Biscuit Co. of America.
United Biscuit Co. of America:
crackers 5421
United Cigar-Whelan Stores Corp.:
candy 5448

[1] Contains opinion of the court.
[2] Seizure contested.

Vegetable Oil Products Co., Inc.: N. J. No.
oleomargarine ---------- [1] 5481
Victory Glass, Inc., Toy Division:
candy-filled glass toys---------- 5447
Viking Fisheries, Ltd.:
frozen fish---------- 5495
Virginia Peanut Co.:
candy---------- 5441
Wagner, H. M., & Co., Inc.:
canned peas---------- 5529
Waldbaum, S & W, Inc.:
butter---------- 5468
Warfield Co.:
chocolate paste---------- 5450
(Thomson & Taylor Division):
Pro-Ten Meat Extender---------- 5600
Washburn Crosby Co.:
flour, enriched---------- 5428
Washington Packers, Inc.:
canned peaches---------- 5507
Waverly Butter & Egg Co.:
butter---------- 5465
Weber & Mollner:
Butex---------- 5572
Webster, G. L., Co., Inc.:
canned mixed vegetables, beets, vegetable soup, and tomato soup- 5520

West Coast Fruit Co.: N. J. No.
dried black cherries---------- 5509
Western Food Corp.:
edible oil---------- 5560
Western Shellfish Co., Inc.:
frozen shrimp---------- 5501
Westfeldt Brothers:
cocoa confection---------- 5449
Wheatley Mayonnaise Co.:
salad dressing---------- 5562
Whelan, Harry A.:
chicken fat---------- 5539
Whelan, Harry E., Division. *See* Niles, E. M., Co.
White, Sherman, & Co.:
frozen eggs---------- 5488
Whitney & Co.:
canned salmon---------- 5498
Whittier Walnut Packing Co.:
shelled walnuts---------- 5547
Wilk, B., & Son:
flour---------- 5427
Williams S. L. K. Laboratories:
anti-gray hair vitamin---------- 5597
Wilson & Co.:
butter---------- 5455
frozen and shell eggs---------- 5490
Zerega's, A., Sons, Inc.:
egg noodles---------- 5413

[1] Prosecution contested.

U. S. GOVERNMENT PRINTING OFFICE: 1943

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

5601–5800

FOODS

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The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

PAUL V. MCNUTT, *Administrator, Federal Security Agency.*

WASHINGTON, D. C., *October 25, 1944.*

CONTENTS

	Page
Beverages and beverage materials	349
Cereals and cereal products	351
Alimentary pastes	351
Corn meal	352
Flour	353
Miscellaneous	360
Chocolate, sugars, and related products	363
Candy	363
Miscellaneous	365
Dairy products	366
Butter	366
Cheese	371
Milk	372
Eggs	373
Feeds and grains	378
Fish and shellfish	381
Fruits and vegetables	386
Canned and dried fruit	386
Fresh and frozen fruit	388
Miscellaneous fruit products	390
Vegetables	390
Tomatoes and tomato products	395
Meat and meat products	396
Nuts and nut products	397
Spices and seasoning	399
Miscellaneous foods	400
Vitamin preparations and foods for special dietary uses	408

BEVERAGES AND BEVERAGE MATERIALS

5601. Adulteration of grapefruit-flavored beverage base. U. S. v. 9 Bottles of Grapefruit Flavored Beverage Base. Default decree of condemnation and destruction. (F. D. C. No. 12331. Sample No. 8442–F.)

On May 8, 1944, the United States attorney for the Western District of Wisconsin filed a libel against 9 bottles of grapefruit-flavored beverage base at Mineral Point, Wis., alleging that the article had been shipped on or about March 10, 1944, by the National Fruit Flavor Co., Inc., New Orleans, La.; and charging that it was adulterated in that it contained an added poisonous and deleterious substance, monochloracetic acid, which was unsafe within the meaning of the law, and in that it was an added poisonous and deleterious substance which was not required in the production of the article and could have been avoided by good manufacturing practice. It was labeled in part: "Grapefruit Flavored Beverage Base 8–1."

On June 19, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

618827—45——1

5602. Adulteration and misbranding of carbonated beverages. U. S. v. 2,084 Cases and 6,000 Cases of Carbonated Beverages. Default decrees of condemnation. Beverage contents ordered destroyed, with provision for the sale of the empty bottles. (F. D. C. Nos. 10410, 10789. Sample Nos. 31085–F, 43114–F.)

On or about August 19 and October 5, 1943, the United States attorneys for the Western District of Washington and the District of Oregon filed libels against 2,084 cases at Seattle, Wash., and 6,000 cases at Portland, Oreg., each containing 12 bottles, of carbonated beverages, alleging that the lot at Seattle and a portion of the lot at Portland (2,000 cases) had been shipped in interstate commerce on or about May 22 and June 10, 1943, from Chicago, Ill., by the S. & L. Beverage Co.; and charging that they were adulterated and misbranded. The articles shipped by that company were labeled in part: (Bottles) "Strawberry Soda [or "Lemon Soda," "Orange Soda," or "Root Beer"] Green Leaf Special Quality Beverages."

They were alleged to be adulterated in that a valuable constituent, sugar, had been in part omitted therefrom, in that saccharin had been substituted for material amounts of sugar, and in that saccharin, having no food value, had been added thereto or mixed or packed therewith so as to reduce the quality or strength of the beverages.

They were alleged to be misbranded in that the names "Strawberry Soda," "Lemon Soda," "Orange Soda," and "Root Beer," appearing in their labeling, were false and misleading as applied to articles containing saccharin, a nonnutritive substance.

On October 4 and November 18, 1943, no claimant having appeared, judgments of condemnation were entered and the beverage contents of the bottles were ordered destroyed, with provision for the sale of the empty bottles. (See notices of judgment on foods, Nos. 5603 and 5604, for the disposition of the remaining 4,000 cases.)

5603. Adulteration of carbonated beverages. U. S. v. 6,000 Cases of Carbonated Beverages. Default decree of condemnation. Beverage contents ordered destroyed, with provision for the sale of the empty bottles. (F. D. C. No. 10790. Sample No. 43110–F.)

On or about October 5, 1943, the United States attorney for the District of Oregon filed a libel against 6,000 cases, each containing 12 bottles, of carbonated beverages at Portland, Oreg., alleging that a portion of the article (2,000 cases) had been shipped in interstate commerce on or about May 22, 1943, from Chicago, Ill., by the Liberty Bott. (Liberty Bottling Co.); and charging that it was adulterated. This portion of the article was labeled in part: (Bottles) "Chicago's Favorite Carbonated Beverage."

It was alleged to be adulterated in that a valuable constituent, sugar, had been in part omitted therefrom, in that saccharin had been substituted for material amounts of sugar, and in that saccharin, having no food value, had been added thereto or mixed or packed therewith so as to reduce the quality or strength of the beverages.

On November 18, 1943, no claimant having appeared, judgment of condemnation was entered and the beverage contents of the bottles were ordered destroyed, with provisions for the sale of the empty bottles. (See notices of judgment on foods, Nos. 5602 and 5604, for the disposition of the remaining 4,000 cases.)

5604. Adulteration and misbranding of carbonated beverages. U. S. v. 6,000 Cases of Carbonated Beverages. Default decree of condemnation. Beverage contents ordered destroyed, with provision for the sale of the empty bottles. (F. D. C. No. 10791. Sample Nos. 43108–F, 43109–F.)

On or about October 5, 1943, the United States attorney for the District of Oregon filed a libel against 6,000 cases, each containing 12 bottles, of carbonated beverages at Portland, Oreg., alleging that a portion of the articles (2,000 cases) had been shipped in interstate commerce on or about May 29, 1943, from Chicago, Ill., by the Silver Cup Beverage Co.; and charging that it was adulterated and misbranded. This portion of the articles was labeled in part: (Bottles) "Tasty Cherry Soda," or "Delight Creamy Root Beer."

The articles were alleged to be adulterated in that a valuable constituent, sugar, had been in part omitted therefrom, in that saccharin had been substituted for material amounts of sugar, and in that saccharin, having no food value, had been added thereto or mixed or packed therewith so as to reduce the quality or strength of the beverages.

They were alleged to be misbranded in that the names "Root Beer" and "Cherry Soda," appearing in their labeling, were false and misleading as applied to articles containing saccharin, a non-nutritive substance.

On November 18, 1943, no claimant having appeared, judgment of condemnation was entered and the beverage contents of the bottles were ordered destroyed, with provision for the sale of the empty bottles. (See notices of judgment on foods, Nos. 5602 and 5603, for the disposition of the remaining 4,000 cases.)

5605. Adulteration and misbranding of orange drink. U. S. v. 100 Cases of Juce Rich California Orange. Decree of condemnation and destruction. (F. D. C. No. 10749. Sample No. 25375–F.)

On September 15, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 100 cases, each containing 6 half-gallon bottles, of Juce Rich California Orange in various lots at Alexandria and elsewhere in Arlington County, Va., alleging that the article had been shipped on or about September 7, 1943, by the American Stores Co. warehouse from Baltimore, Md.; and charging that it was adulterated and misbranded. It was labeled in part: (Bottles) "Citrus Products Co. Lexington 2106 Baltimore, Md."

The article was alleged to be adulterated in that an artificially colored mixture of water, about 20 percent of orange juice, added orange oil, and acid had been substituted for a drink rich in orange juice, which it purported and was represented to be; in that inferiority had been concealed by the addition of artificial color, orange oil, and acid; and in that artificial color, orange oil, and acid had been added or mixed or packed therewith so as to make it appear better or of greater value than it was.

It was alleged to be misbranded in that the statements as appearing in its labeling, "This is a Fruit Juice Food Product * * * JUCE RICH CALIFORNIA ORANGE," and the design of oranges, were false and misleading as applied to an artificially colored mixture of water, about 20 percent orange juice, added orange oil, and acid; and in that the statements "Rich in Vitamins" and "Healthful" were false and misleading due to the fact that the first was capable of leading consumers to believe that the article had substantial amounts of a number of vitamins, whereas it did not. In fact, it was very low in vitamin C content, the one vitamin which would be expected by consumers to be present in substantial amounts in an orange juice product.

On November 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5606. Misbranding of coffee. U. S. v. 800 Cases and 999 Cases of Coffee. Decrees of condemnation. Product ordered released under bond for relabeling. (F. D. C. Nos. 11223, 11224. Sample Nos. 49621–F, 49622–F.)

Examination showed that this product was short-weight.

On December 2, 1943, the United States attorney for the Western District of New York filed libels against 1,799 cases, each containing 12 jars, of coffee at Buffalo, N. Y., alleging that the article had been shipped on or about August 30 and October 4, 1943, from Chicago, Ill., by the Coffee Corporation of America; and charging that it was misbranded. The article was labeled in part: (Jars) "Arrow Blend Vacuum Packed Coffee One Pound Net Weight."

The article was alleged to be misbranded in that the statement "One Pound Net Weight," appearing in its labeling, was false and misleading as applied to an article that was short-weight; and in that it was a food in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On December 28, 1943, Joseph C. Bonerb having appeared as claimant, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

CEREALS AND CEREAL PRODUCTS*

ALIMENTARY PASTES

5607. Adulteration of macaroni. U. S. v. 54 Cases and 12 Cases of Macaroni. Default decree of condemnation and destruction. (F. D. C. No. 10730. Sample Nos. 39733–F, 39738–F.)

Examination showed that this product contained weevils, insect fragments and insect excreta, and that a portion, 12 cases, also contained beetles.

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*See also Nos. 5766, 5769, 5800.

On September 15, 1943, the United States attorney for the District of Arizona filed a libel against 66 cases, each containing 20 cellophane bags, of macaroni at Phoenix, Ariz., alleging that the article had been shipped in interstate commerce on or about April 17, 1943, by the Acme Macaroni & Cracker Co., Los Angeles, Calif.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (Bags) "Vitality Brand 100% No. 1 Semolina Macaroni Packed For Vitality Macaroni Co. Los Angeles, Calif.," or "Gold Stem Brand 100% No. 1 Semolina Macaroni Products."

On October 22, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5608. Adulteration of spaghetti. U. S. v. 18 Boxes of Spaghetti. Decree of condemnation and destruction. (F. D. C. No. 10739. Sample No. 34242–F.)

On September 13, 1943, the United States attorney for the Northern District of West Virginia filed a libel against 18 boxes, containing a total of approximately 360 pounds, of spaghetti at Wheeling, W. Va., alleging that the article had been shipped on or about March 19, 1943, by the Indiana Macaroni Company, Inc., from Indiana, Pa.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, larvae, pupae, and insect fragments. The article was labeled in part: (Box) "La Gragnano Napoli Style Spaghetti."

On October 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5609. Misbranding of noodles. U. S. v. 500 Cases of Noodles. Default decree of condemnation and destruction. (F. D. C. No. 12423. Sample No. 35902–F.)

The labeled portion of this product was short weight.

On or about May 25, 1944, the United States attorney for the Northern District of Georgia filed a libel against 500 cases, each containing 24 packages, of noodles at Atlanta, Ga., alleging that the article had been shipped on or about January 10, 1944, by the Globe Grocery Co., from Lowell, Mass.; and charging that it was misbranded. A portion of the article was labeled in part: (Packages) "Prince Macaroni Products * * * Net Weight One Pound Manufactured By Prince Macaroni Mfg. Co., Lowell, Mass.," (cases) "Due to the shortage of boxes we used a 1-lb. printed box. This carton contains 24—8 oz. pkgs. Plain Medium Noodles." The remainder was contained in unlabeled 1-pound size packages.

The labeled packages were alleged to be misbranded in that the statement "Net Weight One Pound" was false and misleading as applied to an article that weighed only half that amount, and in that its container was so filled as to be misleading since the packages were only about half filled. The unlabeled packages were alleged to be misbranded in that the article was in package form and failed to bear a label which contained the name and place of business of the manufacturer, packer, or distributor; and in that its label failed to bear the common or usual name of the food. Both lots were misbranded in that the article was in package form and failed to bear an accurate statement of the quantity of the contents.

On June 12, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

CORN MEAL

5610. Adulteration of corn meal. U. S. v. 40 Bags of Corn Meal. Default decree of condemnation and destruction. (F. D. C. No. 11171. Sample No. 48440–F.)

On November 23, 1943, the United States attorney for the Southern District of Ohio filed a libel against 40 bags, each containing 25 pounds, of corn meal at Cincinnati, Ohio, alleging that the article, which had been consigned on or about November 11, 1943, had been transported in interstate commerce by William Feldhues from Covington, Ky.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of rodent excreta and rodent hairs. Some of the bags were unlabeled and some were labeled in part: "Corn Meal Made By Walton Feed Mills, Walton, Ky."

On December 27, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. Destruction of this product was effected by mixing it with regular hog feed.

5611. Adulteration of corn meal. U. S. v. 60 Bags of Corn Meal. Default decree of condemnation and destruction. (F. D. C. No. 12101. Sample No. 52853–F.)

On March 27, 1944, the United States attorney for the Eastern District of Virginia filed a libel against 60 10-pound bags of corn meal at Boykins, Va., alleging that the article had been shipped on or about March 11, 1944, by the Stephenson-Sykes Mill from Pendleton, N. C.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth. The article was labeled in part: (Bags) "Old Style Water Ground * * * Corn Meal."

On July 14, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FLOUR

Nos. 5612 to 5632 report actions involving flour that was adulterated in that it was contaminated with one or more of the following types of filth: Beetles, weevils, insects and insect fragments, larvae, pupae, cast skins or capsules, insect excreta, webbing, mites, rodent pellets and rodent excreta fragments, urine, rodent hairs, rodent hair fragments, and fragments resembling rodent hairs. The action reported in **Nos. 5615 to 5620, incl., 5623, 5624, 5628, and 5631** involve flour that was stored under insanitary conditions, after shipment, whereby it might have become contaminated with filth.

5612. Adulteration of flour. U. S. v. 200 Bags of Flour. Decree of condemnation and destruction. (F. D. C. No. 10752. Sample No. 52827–F.)

On or about September 14, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 200 bags of flour at Norfolk, Va., alleging that the article had been shipped on or about April 26, 1943, by the Red Wing Milling Co. from Red Wing, Minn.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of insects, larvae, pupae, and insect fragments. It was labeled in part: "Red Wing Special Patent Bleached Flour."

On November 19, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5613. Adulteration of flour. U. S. v. 541 Bags of Flour. Consent decree of condemnation. Product ordered released under bond for sale to foundries for industrial purposes. (F. D. C. No. 10836. Sample No. 34269–F.)

On September 28, 1943, the United States attorney for the Western District of Pennsylvania filed a libel against 541 bags of flour at Pittsburgh, Pa., alleging that the article had been shipped on or about July 7, 1943, by the Atkinson Milling Co. from Minneapolis, Minn.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of storage insects, larvae, pupae, and cast skins. The article was labeled in part: "Big League First Clear Flour Blanched."

On October 4, 1943, Charles Koch & Co., Pittsburgh, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be sold to foundries for industrial purposes such as the mixing of molds, casts, and chemical coloring matter.

5614. Adulteration of flour. U. S. v. 45 Bags of Flour. Decree of condemnation and destruction. (F. D. C. No. 10714. Sample No. 52825–F.)

On or about September 10, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 45 bags of flour at Norfolk, Va., alleging that the article had been shipped in interstate commerce on or about March 16, 1943, by the Crown Mills from Portland, Oreg.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, larvae, insect fragments, cast skins, and mites. The article was labeled in part: "Herbert's Best Flour Packed Expressly For C. E. Herbert & Sons, Inc. Norfolk, Va."

On October 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5615. Adulteration of flour. U. S. v. 30 Bags of Flour. Default decree of condemnation and destruction. (F. D. C. No. 10959. Sample No. 55311–F.)

This product has been stored under insanitary conditions after shipment. The sacks showed numerous mouse pellets, and the interstices between some

of the sacks were almost filled with mouse pellets. The sacks bore rodent urine stains also, and most of them carried live worms and cocoons on the outside. Examination showed that the product contained insects, larvae, pupae, cast skins or capsules, rodent excreta pellets, and rodent hairs.

On October 19, 1943, the United States attorney for the Western District of Washington filed a libel against 30 bags, each containing 98 pounds, of flour at Seattle, Wash., alleging that the article, which was in the possession of the National Biscuit Co., had been shipped in interstate commerce on or about May 28 and July 3, 1943, from Marseilles and Chicago, Ill.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been stored under insanitary conditions whereby it might have become contaminated with filth.

On November 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5616. Adulteration of flour. U. S. v. 43 Bags of Flour. Default decree of condemnation. Product ordered sold for stock feed. (F. D. C. No. 11856. Sample No. 61019–F.)

This product was stored under insanitary conditions after shipment. The bags were rodent-cut and contained urine stains and rodent excreta. Examination showed that the product was contaminated with urine.

On February 21, 1944, the United States attorney for the Southern District of Alabama filed a libel against 43 bags of flour at Mobile, Ala., alleging that the article was shipped in interstate commerce on or about November 10, 1943, from Memphis, Tenn., and that it was in possession of the Merchants Transfer Co., Mobile, Ala.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of rodent urine, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On April 28, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold to be used for stock feed or some other suitable purpose, but not for human consumption.

5617. Adulteration of Flour. U. S. v. 159 Bags of Flour. Consent decree of condemnation. Product ordered released under bond to be relabeled and reconditioned in conformance with the law. (F. D. C. No. 10853. Sample No. 53413–F.)

On or about October 6, 1943, the United States attorney for the Western District of Virginia filed a libel against 159 bags of flour at Roanoke, Va., alleging that the article, which was in the possession of Roanoke Public Warehouse, had been shipped on or about April 30, 1943, from Minneapolis, Minn.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances because of the presence of insect larvae, larvae head capsules and cast skins, insect fragments, and rodent hair, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth, having been stored where it was accessible to rodents, and the bags having been contaminated with rodent pellets and rodent urine stains.

On December 20, 1943, James W. Michael's Bakery Corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled and reconditioned in conformance with the law, under the supervision of the Food and Drug Administration. The product was satisfactorily denatured for use as animal feed.

5618. Adulteration of flour. U. S. v. 54 Bags of Flour. Consent decree of condemnation. Product ordered released under bond to be denatured and disposed of as animal feed. (F. D. C. No. 11307. Sample No. 56857–F.)

This product had been stored under insanitary conditions after shipment and, when examined, rodent excreta and urine stains were on the bags, some of the bags had been gnawed by rodents, and a rodent nest was found in the stack of flour. Examinations of samples of the flour showed that is was contaminated with urine.

On or about December 16, 1943, the United States attorney for the District of Connecticut filed a libel against 54 bags of flour, each containing 98 pounds, at Bridgeport, Conn., alleging that the article had been shipped in interstate commerce on or about March 16, 1943, from Penn Yan, N. Y., and that it was in the possession of Henry Bresky & Son, Bridgeport, Conn.; and charging that it

was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On January 26, 1944, Henry Bresky & Sons, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for denaturing and use as animal feed.

5619. Adulteration of flour. U. S. v. 22 Bags of Flour. Decree of condemnation and destruction. (F. D. C. No. 10712. Sample No. 52826–F.)

This product had been stored under insanitary conditions after shipment Rodent excreta and what appeared to be rodent urine stains were found on the bags, and one of the bags examined had been gnawed by rodents. Examination of samples taken from this lot showed that it contained rodent pellets, rodent hairs, larvae, cast skins, and insect fragments.

On or about September 10, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 22 bags of flour at Norfolk, Va., alleging that the article, which was in the possession of C. E. Herbert & Sons, Inc., had been shipped on or about February 24, 1943, from Red Wing, Minn.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On October 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5620. Adulteration of white flour, rye flour, whole wheat flour, and self-rising flour. U. S. v. 4 Sacks and 16 Sacks of Whole Wheat Flour (and 8 other seizure actions against flour). Decrees of condemnation entered in all cases. Portion of product ordered released under bond for disposition as animal feed; one lot ordered delivered to a public institution for use as animal feed; remaining lots ordered destroyed. (F. D. C. Nos. 10354, 10442, 10460, 10660, 10661, 10872, 11002, 11179, 11196. Sample Nos. 21929–F, 21930–F, 28038–F to 28042–F, incl., 33977–F, 35530–F, 35705–F to 35707–F, incl., 49002–F, 50113–F, 56361–F, 56362–F.)

One lot of this product was stored under insanitary conditions and was contaminated with rodent excreta and urine. The remainder contained one or more of the following filthy substances: Larvae, cast skins, pupae, weevils, insects, insect fragments, and rodent hair fragments.

Between August 2 and December 3, 1943, the United States attorneys for the District of New Jersey, Western District of Pennsylvania, Northern District of Georgia, Western District of North Carolina, Southern District of Indiana, and the Northern District of Ohio, filed libels against the following quantities of flour: 10 100-pound sacks at Newton, N. J.; 11 98-pound sacks at Erie, Pa.; 80 100-pound sacks at Charlotte, N. C.; 544 6-pound, 876 12-pound, 240 24-pound, and 60 98-pound sacks at Atlanta, Ga.; 108 98-pound sacks at Indianapolis, Ind.; 52 49-pound sacks at Canfield, Ohio; and 73 100-pound sacks and 34 50-pound sacks at Ellwood City, Pa., alleging that the article had been shipped within the period from on or about December 29, 1942, to August 12, 1943, by General Mills, Inc., from Buffalo, N. Y., Johnson City, Tenn., Louisville, Ky., Kansas City, Mo., Minneapolis, Minn., and Chicago, Ill.; and charging that it was adulterated. The article was labeled in part: "Hi-Protein Type * * * Gold Medal Whole Wheat Flour," "Wheat-A-Laxa Whole Wheat Flour," "Pure Rye Hofmuller Dark," "Fluffy White * * * Bleached Enriched Self-Rising * * * Royal Milling Company of General Mills, Inc.," "Sperry Drifted Snow Home Perfected Enriched," "Best Bet Bleached Self-Rising Flour * * * Humboldt Flour Company (Trade Name) of General Mills, Inc.," "Red Star Perfect Process Vitamin and Iron Enriched * * * Red Star Milling Company (Trade Name) of General Mills, Inc.," "Rogers Circus Brand * * * Distributed by Colonial Stores Incorporated," "Red Band Company (Trade Name) of General Mills, Inc. * * * Bleached Enriched Self-Rising Flour," "PurAsnow Vitamin and Iron Enriched," or "Gold Medal Iron Duke."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance. The lot at Canfield, Ohio, was alleged to be adulterated further in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On October 12 and November 6, 1943, and January 15, 1944, Colonial Stores, Inc., Charlotte, N. C., the South Side Baking Co., Inc., Indianapolis, Ind., and the Joe Seitz Wholesale Grocery Co., Atlanta, Ga., having appeared as claimants, respectively, for the flour at Charlotte, and Indianapolis, and 200 12-pound

sacks at Atlanta, Ga., judgments of condemnation were entered and it was ordered that the flour be released under bond for disposition as animal feed. On December 17, 1943, no claimant having appeared for the lot at Ellwood City, a decree of condemnation was entered and the product was ordered denatured for use as animal feed, which decree was amended on December 29, 1943, to provide for the delivery of the flour to a public institution. Between September 28, 1943, and February 3, 1944, no claimant having appeared for the remaining lots, judgments of condemnation were entered and they were ordered destroyed, the decree with respect to the lot at Canfield providing that the product be reprocessed, if possible, for use as animal feed.

5621. Adulteration of rye, whole wheat, and all white flour. U. S. v. 49 Bags of Flour (and 12 additional seizure actions against flour). Decrees of condemnation. Portions of product ordered released to be denatured and disposed of as animal feed, and a portion ordered released for segregation of that part which conformed with the law. The remainder was ordered destroyed. (F. D. C. Nos. 10262, 10305, 10319, 10320, 10371, 10409, 10879, 10949, 11006, 11246, 11589, 11688, 11742. Sample Nos. 8990–F, 21927–F, 30051–F, 34276–F, 34543–F, 34549–F, 34551–F, 34553–F, 35207–F to 35210–F, incl., 35532–F, 35533–F, 49903–F, 50128–F, 50169–F, 56859–F to 56861–F, incl.)

Various portions of this product contained one or more of the following filthy substances: Weevils, larvae, insects, insect fragments, cast skins, webbing, insect excreta, pupae, rodent excreta fragments, rodent hairs, rodent urine, rodent excreta, and rodent pellets.

Between July 19, 1943, and February 15, 1944, the United States attorneys for the Southern District of Florida, District of Connecticut, Southern District of Texas, Western District of North Carolina, Northern District of Ohio, Western District of Pennsylvania, Northern District of West Virginia, and the Western District of Washington filed libels against the following quantities of flour: 88 bags at Jacksonville, Fla., 39 bags at Bridgeport, Conn., 105 bags at Miami, Fla., 60 bags at Ambridge, Pa., each containing 98 pounds; 84 bags at Houston, Tex., each containing 48 pounds; and 96 bags at Tampa, Fla., 59 bags at Charlotte, N. C., 81 bags at Youngstown, Ohio, 13 bags at Wheeling, W. Va., 28 bags at Erie, Pa., and 150 sacks at Seattle, Wash., each containing 100 pounds, alleging that the article had been shipped in interstate commerce from on or about February 1 to October 11, 1943, by the Pillsbury Flour Mills Co. from Enid, Okla., Buffalo, N. Y., Memphis, Tenn., Springfield, Ill., and Minneapolis, Minn.; and charging that it was adulterated. The article was labeled in part: (Bags) "Pillsbury's H and R Hotel Restaurant Flour," "Pillsbury's Pure White Rye Flour," "Pillsbury's Pure Dark Rye Flour," "Pillsbury's Coarse Whole Wheat WHEAT-ALL Flour," "Pillsbury's Best XXXX Enriched Phosphated Flour," "Pillsbury's Prairie Rose Cake and Pastry Flour," "Pillsbury's Fine Ground Whole Wheat Flour," "Pillsbury's Balancer High Gluten Flour," "Pillsbury's XXXX Patent Flour," "Pillsbury's Extra Fancy Sno Sheen Cake Flour," "Pillsbury's Sno-Tex Cake Flour," "Pillsbury's Best Bake-proved Pillsbury's Best XXXX All-purpose Enriched Flour," "Pillsbury Pure Medium Rye Flour," or "Pillsbury's H & R Special Sweet Doh Mix with Soya Flour," and (sacks) "Pillsbury's Pumpernickel Flour."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance.

On August 25 and 30 and December 28, 1943, and January 26, 1944, Bonacker Brothers, Inc., Tampa, Fla., Hathaway Bakeries, Inc., Youngstown, Ohio, Henry Bresky & Sons, Bridgeport, Conn., and Hagin-Peters Co., Jacksonville, Fla., having appeared as claimants, respectively, for the flour seized at Tampa, Youngstown, and Bridgeport, and for 39 bags of the flour seized at Jacksonville, judgments of condemnation were entered and the product covered by the seizures was ordered released under bond for denaturing and use as animal feed. On March 24, 1944, the Lucas Flour Co., claimant for the flour at Seattle, having admitted the allegations of the libel, judgment of condemnation was entered and the flour was ordered released under bond for segregation under the supervision of the Food and Drug Administration of the flour which conformed with the law from that which did not so conform. Between August 26, 1943, and February 25, 1944, no claimants having appeared for the remaining 8 lots, judgments of condemnation were entered and the 49 bags of flour at Jacksonville were ordered delivered to a public institution for use as animal feed; the flour at Miami, Ambridge, and Houston was ordered denatured and disposed of for animal feed; and the remainder of the flour was ordered destroyed.

5622. Adulteration of soya flour. U. S. v. 5 Bags of Basic Soya Flour. Default decree of condemnation. Product ordered sold for use as animal feed. (F. D. C. No. 11181. Sample No. 58515–F.)

On November 24, 1943, the United States attorney for the District of Maryland filed a libel against 5 bags, each containing 100 pounds, of basic soya flour at Baltimore, Md., alleging that the article had been shipped on or about September 24, 1943, from Portsmouth, Va., by Basic Food Materials, Inc.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, and fragments resembling rodent hairs.

On December 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold for use as animal feed.

5623. Adulteration of mixed wheat and corn flour. U. S. v. 11 Bags of Flour. Default decree of condemnation and destruction. (F. D. C. No. 11088. Sample No. 28063–F.)

This product was stored, after shipment, under insanitary conditions. The bags had been gnawed by rodents, and rodent pellets and urine stains were found on all bags. Examination of samples showed that the product contained rodent excreta, and confirmed the presence of urine.

On November 8, 1943, the United States attorney for the Northern District of Georgia filed a libel against 11 bags, each containing 100 pounds, of flour at Atlanta, Ga., alleging that the article had been shipped on or about March 5 and April 26, 1943, from Milwaukee, Wis., and was in the possession of the Brown-Rogers-Dixson Co., Atlanta, Ga.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On December 21, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5624. Adulteration of mixed wheat and corn flour. U. S. v. 22 Bags and 136 Bags of Flour. Default decree of condemnation and destruction. (F. D. C. No. 12265. Sample Nos. 79504–F, 79505–F.)

This product was stored, after shipment, under insanitary conditions. The bags had been tunneled by rodents, and examination of samples showed that the product was contaminated with rodent excreta and rodent hairs, and that it also contained insects, larvae, and insect fragments.

On April 25, 1944, the United States attorney for the District of Columbia filed a libel against 158 bags, each containing 100 pounds, of flour at Washington, D. C., alleging that the article, which had been shipped from Milwaukee, Wis., was in the possession of H. M. Wagner & Co., Washington, D. C., and was in interstate commerce; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On June 27, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5625. Adulteration of mixed wheat and corn flour. U. S. v. 8 Bags and 15 Bags of Flour. Decrees of condemnation. Portion of product ordered released under bond to be denatured and disposed of as animal feed. Remainder ordered destroyed. (F. D. C. Nos. 11241, 12269. Sample Nos. 56858–F, 67528–F.)

Examination showed that this product contained one or more of the following filthy substances: Weevils, insects, larvae, pupae, insect fragments, insect excreta, rodent excreta, and rodent hairs.

On or about December 11, 1943, and April 26, 1944, the United States attorneys for the District of Connecticut and the Southern District of Ohio filed libels against 8 bags at Bridgeport, Conn., and 15 bags at Cincinnati, Ohio, each containing 100 pounds, of mixed wheat and corn flour, alleging that the article had been shipped in interstate commerce on or about April 16 and May 1, 1943, by the Charles A. Krause Milling Co., Milwaukee, Wis.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (8 bags) "Krause Short-N-Rich K Flour," and (15 bags) "C. B. S. Extender Flour."

On January 26, 1944, Henry Bresky & Sons, Bridgeport, Conn., claimant, having admitted the allegations of the libel against the lot of 8 bags, judgment of condemnation was entered and the product was ordered released under bond

for denaturing and use as animal feed. On June 10, 1944, no claimant having appeared for the lot of 15 bags, judgment of condemnation was entered and the product was ordered destroyed.

5626. Adulteration of mixed corn and wheat flour. U. S. v. 16 Bags and 46 Bags of Flour. Decrees of condemnation. Portion of product ordered released under bond for mixing with other ingredients to make stock feed; remainder ordered destroyed. (F. D. C. Nos. 10875, 11021. Sample Nos. 34275–F, 48915–F.)

On October 5 and 27, 1943, the United States attorneys for the Western District of Pennsylvania and the Southern District of Ohio filed libels against 16 bags of flour at Sharon, Pa., and 46 bags of flour at Cincinnati, Ohio, alleging that the article had been shipped on or about March 31 and May 1, 1943, by the Charles A. Krause Milling Co. from Milwaukee, Wis.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of insects or weevils, larvae, and insect fragments. The article was labeled in part: "Kake Flake Extender Flour Made From Wheat & Corn Flours with Vegetable Stabilizer Added."

On November 10, 1943, no claimant having appeared for the lot at Sharon, judgment of condemnation was entered and the product was ordered destroyed. On December 6, 1943, Joseph Taylor & Co., Cincinnati, Ohio, claimant for the lot at Cincinnati, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for mixing with other ingredients to make stock feed, under the supervision of the Food and Drug Administration.

5627. Adulteration of corn flour. U. S. v. 33 Bags of Corn Flour. Consent decree of condemnation. Product ordered released under bond to be denatured. (F. D. C. No. 10699. Sample No. 47814–F.)

On September 8, 1943, the United States attorney for the Eastern District of Missouri filed a libel against 33 bags of corn flour at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about January 24, 1942, and February 13, 1943, by the Charles A. Krause Milling Company from Milwaukee, Wis.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of beetles and larvae. The article was labeled in part: "Bakodust Superior to All Dusting Meals."

On October 6, 1943, the E. Guckenheim Bakers' Supply Company, St. Louis, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured and rendered obviously unfit for human consumption by the intermixture of some suitable substance, under the supervision of the Food and Drug Administration.

5628. Adulteration of corn flour. U. S. v. 59 Bags of Corn Flour. Consent decree of condemnation. Product ordered released under bond for conversion into stock feed. (F. D. C. No. 11056. Sample No. 48991–F.)

This product was stored, after shipment, under insanitary conditions. Rodent pellets were found on and between the bags, which had been gnawed by rodents and appeared to be urine-stained. Live larvae, moths, and weevils were noted on the bags, and examination of samples showed that the product contained rodent excreta, rodent hair fragments, insects, and larvae.

On November 3, 1943, the United States attorney for the Southern District of Ohio filed a libel against 59 bags, each containing 100 pounds, of corn flour at Dayton, Ohio, alleging that the article, which had been consigned on or about June 10, 1943, from Milwaukee, Wis., had been shipped in interstate commerce, and was in the possession of the Laurel Bircuit Co., Dayton, Ohio; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On January 14, 1944, Virgil Schaeffer, claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed under the supervision of the Food and Drug Administration. On January 19, 1944, an amended decree was entered permitting the denaturing of the product under the supervision of the United States marshal.

5629. Adulteration of cake flour. U. S. v. 210 Bags of Flour. Consent decree of condemnation. Product ordered released under bond to be denatured. (F. D. C. No. 10873. Sample No. 56084–F.)

This product contained insects, larvae, pupae, and insect fragments.

On or about October 6, 1943, the United States attorney for the Southern District of New York filed a libel aaginst 210 bags of flour at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about May 10, 1943, by the Lakeview Milling Co., Chambersburg, Pa.; and charging that it was adulterated as it was a product consisting in whole or in part of a filthy substance. The article was labeled in part: "Cream of the Lake Bleached Cake Flour."

On October 20, 1943, the Gottfried Baking Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured at the place where the flour was stored, under the supervision of the Food and Drug Administration, by mixing bone meal or another ingredient with the flour so that it could be used only as a poultry or animal food. On October 27, 1943, the decree was amended to permit denaturing of the product at the place of business of a certain other company.

5630. Adulteration of doughnut flour. U. S. v. 8 Bags of Donut Flour. Consent decree ordering destruction of the product. (F. D. C. No. 10911. Sample No. 21925–F.)

On October 9, 1943, the United States attorney for the Western District of Pennsylvania filed a libel against 8 bags, each containing 140 pounds, of doughnut flour at Pittsburgh, Pa., alleging that the article had been shipped on or about June 1, 1943, by the Joe Lowe Corporation from New York, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of insects, insect larvae, and cast skins.

On October 21, 1943, the claimant having consented to the entry of a decree, judgment was entered ordering the product to be destroyed.

5631. Adulteration of doughnut flour. U. S. v. 101 Bags of Doughnut Flour. Default decree of condemnation and destruction. (F. D. C. No. 11016. Sample No. 12576–F.)

This product had been stored under insanitary conditions after shipment. Rodent pellets and urine stains were noted on some of the bags, and some had been gnawed by rodents. Examination of samples taken from this lot showed that it contained rodent hairs and rodent excreta.

On October 26, 1943, the United States attorney for the Western District of Washington filed a libel against 101 second-hand flour bags, each containing 100 pounds, of doughnut flour at Seattle, Wash., alleging that the article, which was in the possession of Cottage Donuts, Inc., had been shipped in interstate commerce on or about August 14, 1943, from Los Angeles, Calif.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On November 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5632. Adulteration of flour mixes. U. S. v. 42 Bags of Coffee Cake Mix (and 3 other seizures of flour mixes). Decrees of condemnation. Portion of product ordered destroyed; remainder ordered disposed of as animal feed. (F. D. C. Nos. 10265, 10331, 10381, 11483. Sample Nos. 8991–F, 9151–F, 28991–F to 28993–F, incl., 49836–F.)

On or about July 17 and 31, August 9, and December 21, 1943, the United States attorneys for the Southern District of Texas, the Eastern District of South Carolina, and the Western District of New York filed libels against 42 bags of coffee cake mix, 69 drums of spice muffin mix, 30 drums of waffle mix, 16 drums of bran muffin mix, and 48 sacks of ginger muffin mix at Houston, Tex., 108 drums of ginger muffin mix, 28 drums of biscuit mix, and 40 drums of waffle mix at Columbia, S. C., and 3 barrels of gingerbread doughnut mixture at Jamestown, N. Y., alleging that the lot located at Jamestown had been shipped from Ellicott City, Md., on or about May 1, 1941, and that the remainder had been shipped within the period from on or about April 5 to June 2, 1943, in part from Ellicott City, Md., and in part from New York, N. Y., all

shipments having been made by the Doughnut Corporation of America; and charging that they were adulterated in that they consisted in whole or in part of filthy substances by reason of the presence of various types of filth such as insects, larvae, insect fragments, and weevils. The articles were labeled in part: "Downyflake Fixt Ginger Muffin Mix [or "Biscuit Mix," or "Waffle Mix"]," "Downyflake Fixt Mix * * * Spice Muffin [or "Bran Muffin"]," "Ginger Bread Doughnut Mixture," or "Special Coffee Cake Mix."

On August 26 and September 21 and 30, 1943, and February 18, 1944, no claimant having appeared, judgments of condemnation were entered and the products seized at Jamestown, N. Y., and Columbia, S. C., were ordered destroyed, and those seized at Houston, Tex., were ordered converted into animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

5633. Adulteration of Economalt. U. S. v. 3 Bags of a Wheat Product. Decree of condemnation and destruction. (F. D. C. No. 10884. Sample No. 34272–F.)

On October 6, 1943, the United States attorney for the Western District of Pennsylvania filed a libel against 3 bags, each containing 100 pounds, of a wheat product at New Castle, Pa., alleging that the article had been shipped on or about October 30, 1942, by the Kansas Milling Company from Wichita, Kans.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of insect excreta pellets, webbing, insects, and larvae. The article was labeled in part: (Bags) "Bakers Economalt Non-Caking Made From Wheat * * * Cereal Research Laboratories Wichita, Kansas."

On November 10, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5634. Adulteration of popcorn. U. S. v. 289 Bags of Pop Corn. Consent decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 12486. Sample No. 53667–F.)

On May 31, 1944, the United States attorney for the Southern District of California filed a libel against 289 bags of popcorn at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about January 20, 1944, by the J. A. McCarty Seed Co. from Evansville, Ind.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta. The article was labeled in part: (Bags) "Mellos' Block Buster Brand Pop Corn Mellos Peanut Co. Los Angeles, Calif."

On June 19, 1944, William J. Daze, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

5635. Alleged adulteration of popcorn. U. S. v. 55 Cases of Popped Corn and 20 Cases, 25 Cases, and 25 Cases of Popcorn. Tried to the court. Decrees entered ordering dismissal of the case and the release of the product to the claimant. (F. D. C. No. 10682. Sample Nos. 42849–F to 42851–F, incl., 42853–F.)

Analysis showed that this product was popped popcorn with added artifically colored mineral oil and salt.

On September 10, 1943, the United States attorney for the District of Idaho filed a libel against 55 cases, each containing 24 packages, 20 cases, each containing 60 packages, and 50 cases, each containing 72 packages, of popcorn, at Moscow, Idaho, alleging that the article had been shipped in interstate commerce on or about July 27 and 29 and August 18, 1943, from Spokane, Wash., by the Masterson Food Products Co. and Hol-Grain Products; and charging that it was adulterated. The adulteration charges are set out in the court's opinion. The article was labeled in part: (Packages) "Masterson Food Products Popped Corn [or "Popcorn"]. Ingredients Popcorn, Mineral Oil, Salt (If colored or flavored U. S. Certified coloring and flavoring used)."

On December 4, 1943, Mason, Ehrman & Company, Moscow, Idaho, having appeared as claimant, the case came on for trial before the court without a jury. After the taking of testimony had been concluded, the case was taken under advisement by the court, and on December 20, 1943, the court handed down the following memorandum opinion:

CLARK, *District Judge:*

"The libel of information in this case seeks destruction of four interstate shipments of popped corn charged to have been adulterated within the meaning of

21 U. S. C. A. in that: '342 (b) (1) in that a valuable constituent, namely butter or an edible vegetable oil, has been in whole or in part omitted'; '342 (b) (2) in that a substance consisting of popped corn with added artificially colored non-nutritive mineral oil and salt has been substituted for popcorn (or popper corn) which the article purports to be'; '342 (b) (3) in that inferiority has been concealed by the addition of artificial color'; '342 (b) (4) in that mineral oil has been mixed or packed therewith so as to reduce its quality or strength or make it appear better or of greater value than it is'; '343 (b) in that it is offered for sale under the name of 'popped corn' (55 cases) and 'popcorn' (20 cases and the two 25 cases), the same being the name of another food, 'popped pop corn,' to which has been added melted butter or vegetable oil.'

"The Government relies mainly on subsection 343 (b) and contends under this subsection that the corn in question was not popped popcorn because melted butter or vegetable oil was not used in preparing it for the market. In other words, that popped popcorn has a definite and distinct definition and that if any other ingredients were added to popped popcorn than butter or vegetable oil, it was not popped popcorn, and in view of the fact that in the instant case, mineral oil was used, it was an adulterated food.

"This libel is brought under subdivision (b) of Section 342 Title 21 U S C A—the Food and Drug Act, which is as follows: '(1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.'

"The Food and Drug Act was passed to protect the public health and should be construed liberally to meet the purpose for which it was enacted and the Court must endeavor to protect the public from interstate commerce in food products so adulterated as to injure or endanger health and also to see to it that food products are so branded that the consumer would know that there was no misrepresentation as to its substance and that the food purchased was what it purported to be.

"The popped corn in question was branded plainly on each package as follows: 'Masterson's Food Products Popped corn Ingredients: Popcorn, Mineral Oil, Salt (If colored or flavored U S Certified coloring and flavoring used. * * * Masterson Food Products Co., Spokane Washington Net Weight 5 ounces When packed.' The only change in the branding on the various packages being as to the weight, which was according to the size of the package. So in the first instance there is no misbranding and the consumer was fully advised as to the contents of the various packages. There was no deceit practiced in this matter and there is no contention on the part of the Government that there was. So it leaves only two questions for the Court.

"First, is the food product in question popped popcorn?

"Second; has any valuable constitutent been in whole or in part abstracted therefrom, or has any substance been substituted in whole or in part therefor, or is there any damage or inferiority that has been concealed in any manner, or has any substance been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength, or make it appear better or greater than it is?

"I can see little merit in the contention that the article of food contained in the packages branded as hereinbefore stated was not popped popcorn. It would be just as reasonable to say that if the corn so popped had not had salt, butter or vegetable oil used in its manufacture and preparation that it would not have been popped popcorn, and it is plain from the evidence introduced in this case that there is no exact formula used in the preparation of popcorn for the market. In the case of W. B. Wood Mfg. Co., v. United States 292 Fed. 133, the Court said: 'The Standard set by the statute is not what is customarily done by manufacturers but what is properly done by them * * *'. Whether Mineral oil has ever been used heretofore, the Court is not advised but the Court is satisfied that there is no established formula for its preparation, and the Court is also satisfied that the corn in question is popped popcorn, and so holds.

"On the second question there is no evidence before the Court showing that mineral oil in the quantities used would be injurious to the public health, nor is there any reason shown why the popcorn as prepared and branded should not be consumed by the public, nor that it is adulterated within the meaning of the statute, and as there is no proof of these facts, the popped corn could not be found to be adulterated within the meaning of the statute.

"Realizing full well the duty of the Court to protect the public from interstate commerce in food products injurious to the public health and having in mind the importance of the strict enforcement of the food and drug act, and giving the most liberal construction to the Government's case, the Court is of the opinion that the libel of information is not supported by the evidence and should be dismissed. An Order will be entered."

On December 20, 1943, judgment was entered dismissing the case, and on December 29, 1943, an order was entered for the release of the goods to the claimant.

5636. Adulteration of rice. U. S. v. 90 Bags of Rice. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of unfit portion. (F. D. C. No. 12643. Sample No. 67548–F.)

This product had been stored under insanitary conditions after shipment in interstate commerce. Some bags had been gnawed by rodents and rodent excreta and urine stains were found on the bags. Examination of samples taken from this lot showed that it had been contaminated with urine and contained rodent excreta.

On June 7, 1944, the United States attorney for the Southern District of Ohio filed a libel against 90 bags of rice at Cincinnati, Ohio, alleging that the article, which was in the possession of the Cincinnati Terminal Warehouses, Inc., had been shipped in interstate commerce on or about December 6, 1943, from Chicago, Ill.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On June 13, 1944, the Mills Cincinnati Restaurant Co., claimant, having admitted the truth of the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion under the supervision of the Food and Drug Administration.

5637. Adulteration of rice. U. S. v. 129 Bags and 103 Bags of Rice. Decrees of condemnation. One portion ordered released under bond to be reprocessed; remainder ordered destroyed or reprocessed for animal feed. (F. D. C. Nos. 11001, 11478. Sample Nos. 34297–F, 49012–F.)

On November 3 and December 29, 1943, the United States attorney for the Northern District of Ohio filed libels against 232 bags, each containing 100 pounds, of rice at Youngstown and Cleveland, Ohio, alleging that the article had been shipped in interstate commerce within the period from on or about September 28, 1942, to March 22, 1943, by the Southern Rice Sales Co. from DeWitt, Ark., Houston, Tex., and Rayne and Crowley, La.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of one or more of the following: Insects, insect fragments, larvae, pupae, cast skins, and rodent hair fragments. The article was labeled in part: "21 Sorico Extra Fancy Fort Una," or "River Brand Rice Extra Fancy Blue Rose Uncoated."

On November 29, 1943, the Mahoning Valley Flour Company, Youngstown, Ohio, claimant for the lot at Youngstown, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reprocessed under the supervision of the Food and Drug Administration. This portion was fumigated and cleaned, and the rejected material was destroyed. On May 26, 1944, no claimant having appeared for the remaining lot, judgment of condemnation was entered and the product was ordered destroyed or reprocessed for animal feed.

5638. Adulteration of rye chops. U. S. v. 43 Bags of Rye Chops. Decree of condemnation and destruction. (F. D. C. No. 10466. Sample No. 52821–F.)

On August 23, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 43 bags of rye chops at Norfolk, Va., alleging that the article had been shipped on or about March 25, 1943, by the Atkinson Milling Co., from Minneapolis, Minn.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of insects and larvae. It was labeled in part: (Tag) "Freedom Rye Chops."

On November 19, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5639. Adulteration of whole rye grains. U. S. v. 11 Bags of Whole Rye Grains. Default decree of condemnation and destruction. (F. D. C. No. 12358. Sample No. 76920–F.)

On May 12, 1944, the United States attorney for the Southern District of New York filed a libel aaginst 11 bags, each containing 100 pounds, of whole rye grains at Bronx, N. Y., alleging that the article had been shipped on or about December 13, 1943, by Ben Katz, Heightstown, N. J.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of rodents excreta and rodent- and insect-eaten grains. The article was packed in second-hand flour sacks which bore a variety of brand names.

On June 6, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5640. Adulteration of soy grits. U. S. v. 89 Bags of Soy Grits. Consent decree of condemnation. Product ordered released under bond to be reprocessed for feed. (F. D. C. No. 11077. Sample No. 28066–F.)

On November 8, 1943, the United States attorney for the Northern District of Georgia filed a libel against 89 bags, each containing 100 pounds, of soy grits at Atlanta, Ga., alleging that the article had been shipped on or about May 1, 1943, by Allied Mills, Inc., from Peoria, Ill.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of weevils, moths, larvae, and insect fragments. It was labeled in part: "KreemKo Soy Grit."

On November 22, 1943, the Nelson Brokerage Co., Atlanta, Ga., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reprocessed for feed, conditioned that it be segregated so that its identity might be maintained, under the supervision of the Food and Drug Administration.

CHOCOLATE, SUGARS, AND RELATED PRODUCTS*

CANDY

5641. Adulteration of candy. U. S. v. 221 Boxes and 25 Boxes of Candy. Decree of condemnation and destruction. (F. D. C. No. 10862. Sample Nos. 47247–F to 47251–F, incl.)

Examination showed that this product contained one or more of the following: Larvae, insect fragments, rodent hair fragments, fragments resembling rodent hair and insects.

On October 1, 1943, the United States attorney for the Eastern District of Arkansas filed a libel against 221 boxes, each containing 30 bars, and 25 boxes, each containing 40 bars, of candy at Brinkley, Ark., alleging that the article, which had been consigned by the Reliable Candy Co., had been shipped in interstate commerce on or about September 4 and 11, 1943, from Memphis, Tenn.; and charging that it was adulterated in that it consisted in whole or in part of a filthy, putrid, and decomposed substance, and was otherwise unfit for food. It was labeled in part: "Victory Candy Bar," "Fudge Candy Bar," "Big Roll Candy Bar," or "Peanut Brittle."

On November 9, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5642. Adulteration and misbranding of Spanish peanut bars. U. S. v. 40 Boxes of Spanish Peanut Bars. Default decree of condemnation and destruction. Product ordered delivered to a charitable institution. (F. D. C. No. 12342. Sample No. 63306–F.)

This product was short weight. It was a wax-paper wrapped candy bar of the peanut brittle type and contained peanuts and puffed wheat. The puffed wheat could be readily mistaken for peanuts. The name "Spanish Peanut Bar" was printed in prominent red type while the ingredient statement was in small white type.

On May 17, 1944, the United States attorney for the Southern District of Florida filed a libel against 40 boxes, each containing 20 bars, of the above-named article at Miami, Fla., alleging that it had been shipped on or about April

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*See also Nos. 5751, 5769, 5797, 5799.

18, 1944, by the McAfee Candy Co., from Macon, Ga.; and charging that it was adulterated and misbranded. The article was labeled in part: (Bar wrapper) "Spanish Peanut Bar 5¢ * * * Net Wt. 2¼ Oz."

It was alleged to be adulterated in that an article which contained puffed wheat in addition to peanuts had been substituted in whole or in part for a "Spanish Peanut Bar," which it purported to be.

It was alleged to be misbranded in that the name "Spanish Peanut Bar" was misleading as applied to an article which contained puffed wheat in addition to peanuts; in that the statement "Net Wt. 2¼ Oz." was false and misleading as applied to an article that was short weight; and in that it was in package form and failed to bear a label which contained an accurate statement of the quantity of the contents.

On June 16, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed by delivery to a charitable institution.

5643. Misbranding of candy. U. S. v. 209 Boxes of Candy. Decree of condemnation. Product ordered delivered to a government institution. (F. D. C. No. 10200. Sample No. 42443–F.)

The boxes were not filled to capacity. They contained 5 pieces of taffy wrapped in wax paper with twisted ends, and at least 2 additional pieces could have been placed in each box.

On July 27, 1943, the United States attorney for the Western District of Washington filed a libel against 209 boxes of candy at Seattle, Wash., alleging that the article had been shipped by R. L. Albert & Son, Inc., in interstate commerce on or about May 13, 1943, from New York, N. Y.; and charging that it was misbranded in that the containers were so filled as to be misleading. The article was labeled in part: "Spray Salt Water Taffy."

On January 5, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a government institution.

5644. Misbranding of candy. U. S. v. 15 Cases of Candy. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 10716. Sample Nos. 51315–F to 51317–F, incl.)

This product was packed in packages containing 5 or 6 paper-wrapped candy kisses or chocolate-coated candy, and a prize of various kinds. The candy and prize occupied on an average less than half of the available space in the package.

On or about September 15, 1943, the United States attorney for the District of Connecticut filed a libel against 15 cases, each containing 110 packages, of candy at New London, Conn., alleging that the article had been shipped on or about August 12, 13, and 16, 1943, in interstate commerce, by Delight Sweets, Inc., from New York, N. Y.; and charging that it was misbranded in that its container was so filled as to be misleading since the candy and prize occupied less than 50 percent of the available space. The article was labeled in part: (Packages) "Fashion Sweets Assorted Chews * * * Candy Contents Below This Line Novelty Package," or "Nobby Chocolate Crushed Cherry Creams Candy Contents Above This Line."

On November 2, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

5645. Misbranding of candy. U. S. v. 39 Cartons of Rock Candy Pure Crystals. Decree of condemnation and destruction. (F. D. C. No. 10963. Sample No. 28057–F.)

This product was short-weight.

On October 19, 1943, the United States attorney for the Northern District of Georgia filed a libel against 39 cartons, each containing 20 packages, of rock candy pure crystals at Atlanta, Ga., alleging that the article was shipped on or about September 24, 1943, by Dryden & Palmer, Inc., from Long Island City, N. Y.; and charging that it was misbranded in that the statement "4 Oz. Net," borne on the label, was false and misleading as applied to a product that was short-weight; and in that it was food in package form and its label failed to bear an accurate statement of the quantity of the contents. The article was labeled in part: (Package) "D. & P. Rock Candy Pure Crystals."

On November 17, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MISCELLANEOUS CHOCOLATE AND SACCHARINE PRODUCTS

5646. Adulteration and misbranding of icing. U. S. v. 1 Wooden Tub of Kisky's Silver Frost. Default decree of condemnation and destruction. (F. D. C. No. 10778. Sample No. 55215–F.)

This product contained from 10 to 12 percent of mineral oil.

On September 18, 1943, the United States attorney for the Eastern District of Washington filed a libel against 1 wooden tub of Kisky's Silver Frost at Goldendale, Wash., alleging that the article had been shipped in interstate commerce on or about August 26, 1943, by the J. B. Kisky Co., Portland, Oreg.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that mineral oil, a non-nutritive substance, had been substituted in part for vegetable oil, which it was labeled to contain; and in that mineral oil, a non-nutritive substance, had been added to or mixed or packaged with the article so as to reduce its quality or strength.

It was alleged to be misbranded in that the statement appearing in its labeling, "Prepared from; Sugar, Vegetable Oils, Glycerine, Egg Albumen, Glucose, Invert Syrup, Salt, Lecithin, Vegetable Gums, Vanillin, Aliphatic acids, Ketones, Sesame Oil," was false and misleading as applied to an article that contained mineral oil.

On November 19, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5647. Adulteration of cake topping. U. S. v. 2 Barrels of Cake Topping. Default decree of destruction. (F. D. C. No. 10815. Sample No. 34246–F.)

On September 23, 1943, the United States attorney for the Southern District of Ohio filed a libel against 2 barrels, each containing about 175 pounds, of cake topping at Martins Ferry, Ohio, alleging that the article had been shipped in interstate commerce on or about July 23, 1943, by Hardesty & Stineman, Pittsburgh, Pa.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of beetles, larvae, and insect fragments. The article was labeled in part: "H & S Brand Cake Topping."

On November 2, 1943, no claimant having appeared, judgment was entered ordering that the product be destroyed.

5648. Adulteration of imitation cocoa. U. S. v. 16 Bags of Imitation Cocoa. Decree of condemnation and destruction. (F. D. C. No. 10706. Sample No. 34229–F.)

On September 8, 1943, the United States attorney for the Western District of Pennsylvania filed a libel against 16 bags, each containing about 100 pounds, of imitation cocoa at Pittsburgh, Pa., alleging that the article had been shipped on or about May 25, 1943, by the Norda Essential Oil and Chemical Co. from New York City; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of larvae, pupae, cast skins, insect fragments, and rodent hair fragments. The article was labeled in part: "Norda Maid Imitation Cocoa Flavor."

On October 23, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5649. Misbranding of cocoa and chocolate stretcher. U. S. v. 275 Cases of Cocoa and Chocolate Stretcher. Default decree of condemnation and destruction. (F. D. C. No. 10278. Sample No. 42823–F.)

Examination showed that this product consisted of cocoa shells with added cocoa butter, and that it simulated cocoa in appearance and odor.

On July 22, 1943, the United States attorney for the Eastern District of Washington filed a libel against 275 cases, each containing 12 1-pound packages, of cocoa and chocolate stretcher at Spokane, Wash., alleging that the article had been shipped in interstate commerce on or about May 14, 1943, from San Francisco, Calif., by the Sheldon Products Co.; and charging that it was misbranded. The article was labeled in part: (Bags) "Food Craft Cocoa and Chocolate Stretcher."

The article was alleged to be misbranded in that the statement, "Cocoa and Chocolate Stretcher Doubles Portions" was false and misleading since the article would not double portions of cocoa and chocolate; in that the statement, "Use half and half with your favorite cocoa or chocolate to make cocoa and chocolate drinks, syrups, candy, frostings and milk shakes," was false and misleading since cocoa shells are not ingredients of cocoa and chocolate drinks, sirups, candy, frostings, and milk shakes; in that it was an imitation of another food, cocoa,

and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

On January 19, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that was contaminated with mold, **Nos. 5650 to 5652, incl., and 5666**; below the legal standard for milk fat content, **Nos. 5653 to 5665, incl., and 5667 to 5669, incl.**; short-weight, **Nos. 5666 and 5668 to 5670, incl.**

5650. Adulteration of butter. U. S. v. 8 Tubs of Butter. Default decree of condemnation. Product ordered delivered to charitable institutions for use in the form of grease. (F. D. C. No. 10978. Sample No. 23821–F.)

Analysis showed that this product was contaminated with mold.

On August 11, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 8 64-pound tubs of butter at Philadelphia, Pa., alleging that the article had been shipped on or about Auugst 5, 1943, by the Blue Ridge Creamery, Inc., from Luray, Va.; and charging that it was adulterated in that it consisted in whole or in part of a filthy or decomposed animal substance.

On September 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions for use in the form of grease.

5651. Adulteration of butter. U. S. v. 13 Cases and 12 Cases of Butter. Default decree of condemnation and destruction. (F. D. C. No. 11035. Sample Nos. 35470–F, 35471–F.)

This product contained mold.

On October 18, 1943, the United States attorney for the Northern District of Georgia filed a libel against 25 cases of butter at Atlanta, Ga., alleging that the article had been shipped on or about October 7, 1943, by the Borden Company from Nashville, Tenn.; and charging that it was adulterated in that it consisted in whole or in part of a filthy or decomposed substance. The article was labeled in part: (Carton) "Morning Glory [or "Blue Ribbon"] Creamery Butter."

On November 17, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. It was denatured and delivered to a commercial firm for fat salvage.

5652. Adulteration of butter. U. S. v. 22 Boxes of Butter. Default decree of condemnation and destruction. (F. D. C. No. 10656. Sample No. 38915–F.)

Analysis showed that this product was contaminated with mold.

On July 31, 1943, the United States attorney for the Northern District of Indiana filed a libel against 22 32-pound boxes of butter at Highland, Ind., alleging that the article had been shipped in interstate commerce on or about July 14, 1943, by the Kankakee Butter Co. from Kankakee, Ill.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (Carton) "Delicious Fine Creamery Butter."

On November 13, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5653. Adulteration of butter. U. S. v. Harold A. Hamilton (Eldorado Creamery Company). Plea of guilty. Fine, $200. (F. D. C. No. 10537. Sample Nos. 31964–F, 42136–F.)

On September 15, 1943, the United States attorney for the Southern District of Ohio filed an information against Harold A. Hamilton, trading as the Eldorado Creamery Company, Eldorado, Ohio, alleging shipment within the period from on or about February 10 to May 1, 1943, from the State of Ohio into the State of Indiana of quantities of butter that was adulterated. The article was labeled in part: "Wayne County Farm Bureau Produce Ass'n Distributors Richmond, Indiana Creamery Butter."

The article was alleged to be adulterated in that a valuable constituent, milk fat, had been in part omitted therefrom; and in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

On November 1, 1943, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $100 on each of the 2 counts.

5654. Adulteration of butter. U. S. v. 44 Cartons of Butter. Decree of condemnation. Product ordered released upon deposit of cash collateral, conditioned upon reworking. (F. D. C. No. 10895. Sample Nos. 51235–F, 51236–F.)

On September 15, 1943, the United States attorney for the District of Massachusetts filed a libel against 44 cartons, each containing 32 pounds, of butter at Boston, Mass., alleging that the article had been shipped on or about August 28, 1943, by American Dairies, Inc., from Kansas City, Mo.; and charging that it was adulterated in that a product containing less that 80 percent by weight of milk fat had been substituted for butter. It was labeled in part: (Wrapper) "Prairie Rose Brand Creamery Butter."

On October 1, 1943, Hilton & Aldrich Company, Boston, Mass., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released upon deposit of cash collateral, conditioned that it be reworked, under the supervision of the Food and Drug Administration, so that it contain at least 80 percent of milk fat.

5655. Adulteration of butter. U. S. v. 15 Boxes and 15 Boxes of Butter. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 12787. Sample No. 60434–F.)

On June 6, 1944, the United States attorney for the Northern District of California filed a libel against 30 boxes, each containing 63 pounds, of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about May 18, 1944, by Casperson Products, Inc., from Hutchinson, Kans.; and charging that it was adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: "Independent Creamery Co."

On June 15, 1944, O. Casperson & Sons having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration.

5656. Adulteration of butter. U. S. v. 11 Boxes and 4 Boxes of Butter. Default decree of forfeiture. Product ordered delivered to charitable institutions. (F. D. C. No. 10771. Sample No. 38920–F.)

On August 6, 1943, the United States attorney for the Northern District of Indiana filed a libel against 11 boxes, each containing 32 pounds, and 4 boxes, each containing 31 pounds, of butter at Gary, Ind., alleging that the articles had been shipped in interstate commerce on or about July 21, 1943, by the Dixie Dairy Co., Harvey, Ill.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: "Fancy Sweet Cream Butter * * * Dixie Brand."

On November 13, 1943, no claimant having appeared, judgment of forfeiture was entered and the product was ordered delivered to charitable institutions.

5657. Adulteration of butter. U. S. v. 2 Boxes of Butter. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 10659. Sample No. 56623–F.)

On August 25, 1943, the United States attorney for the Southern District of New York filed a libel against 2 boxes, each containing approximately 62 pounds, of butter at New York, N. Y., alleging that the article had been shipped on or about August 11, 1943, by the Farmville Creamery, Inc., Farmville, Va.; and charging that it was adulterated in that it was deficient in butter fat and contained less than 80 percent by weight of milk fat.

On November 13, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

5658. Adulteration of butter. U. S. v. 310 Cartons (19,840 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond for reworking. (F. D. C. No. 10891. Sample Nos. 38929–F, 38935–F.)

On September 10, 1943, the United States attorney for the Northern District of Illinois filed a libel against 310 cartons of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about May 11 1943, by

the Fort Smith Creamery Company from Fort Smith, Ark.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. It was labeled in part: (Tracing) "The Peter Fox Sons Co. Chicago, Ill."

On November 1, 1943, Peter Fox Sons Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

5659. Adulteration of butter. U. S. v. 5 Boxes (290 pounds) of Butter. Default decree of condemnation. Product ordered delivered to a Federal agency. (F. D. C. No. 12788. Sample No. 59903–F.)

On May 5, 1944, the United States attorney for the Northern District of Illinois filed a libel against 5 boxes of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about April 22, 1944, by the Kruger Dairy Products Co., from Monon, Ind.; and charging that it was adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

On June 7, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Federal agency on condition that it should not be sold.

5660. Adulteration of butter. U. S. v. 14 Boxes of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 12791. Sample Nos. 40575–F, 81788–F.)

On June 7, 1944, the United States attorney for the Southern District of New York filed a libel against 14 boxes, each containing approximately 64 pounds, of butter at New York, N. Y., alleging that the article had been shipped on or about May 25, 1944, by the Langenfeld Ice Cream Co. from Aberdeen, S. Dak.; and charging that it was adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

On June 19, 1944, a claim having been filed on behalf of Langenfeld Ice Cream Co., and the allegations of the libel having been admitted, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

5661. Adulteration of butter. U. S. v. 111 Cubes (7,104 pounds) of Butter. Decree of condemnation. Product ordered released under bond to be brought into compilance with the law. (F. D. C. No. 12797. Sample No. 60064–F.)

On May 24, 1944, the United States attorney for the Northern District of California filed a libel against 111 cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about May 6, 1944, by the Nebraska Cooperative Creameries from Omaha, Nebr.; and charging that it was adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

On June 8, 1944, the Challenge Cream & Butter Association having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration.

5662. Adulteration of butter. U. S. v. 13 Cubes, 3 Cubes, 1 Cube, and 1 Cube of Butter. Decree of condemnation. Product ordered released under bond, conditioned that it be made to conform with the law. (F. D. C. No. 10758. Sample No. 11531–F.)

On August 19, 1943, the United States attorney for the Northern District of California filed a libel against a total of 18 63-pound cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce from Omaha, Nebr., on or about July 31, 1943, by Frank Pilley & Sons, Inc.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. Portions of the article were labeled in part: "Circle A Brand Salt Butter."

On September 13, 1943, B. J. Holmes, doing business as the B. J. Holmes Sales Co., San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be made to conform with the law under the direction of the Food and Drug Administration.

5663. Adulteration of butter. U. S. v. 40 Boxes (2,560 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 11034. Sample Nos. 34295-F, 50101-F.)

On October 16, 1943, the United States attorney for the Northern District of Ohio filed a libel against 40 boxes, each containing 64 pounds, of bulk butter at Youngstown, Ohio, alleging that the article was shipped in interstate commerce on or about September 21, 1943, by the Sorensen Creameries, Big Stone City, S. Dak.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk had been substituted for butter. It was labeled in part: "The Isaly Dairy Co. * * * Youngstown, Ohio."

On November 2, 1943, the Isaly Dairy Company, claimant, having admitted the allegations set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

5664. Adulteration of butter. U. S. v. 14 Cubes (952 pounds) of Butter. Consent of condemnation. Product ordered released under bond for reworking. (F. D. C. No. 10980. Sample No. 39242-F.)

On September 21, 1943, the United States attorney for the Southern District of California filed a libel against 14 cubes, each containing 68 pounds, of butter at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about August 31, 1943, by the Spur Creamery from Spur, Tex.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter.

On October 20, 1943, Arden Farms Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration. The product was thereafter rechurned.

5665. Adulteration of butter. U. S. v. 12 Boxes (816 pounds) of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. D. C. No. 12798. Sample Nos. 8458-F, 76045-F.)

On May 23, 1944, the United States attorney for the Southern District of New York filed a libel against 12 boxes of butter at New York, N. Y., alleging that the article had been shipped on or about May 13, 1944, by the Strandquist Creamery Co., Strandquist, Minn.; and charging that it was adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter. The article was labeled in part: "Distributed by Hunter, Walton & Co., New York, N. Y."

On June 3, 1944, a claim having been filed on behalf of the Strandquist Creamery and the allegations of the libel having been admitted, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Food and Drug Administration.

5666. Adulteration and misbranding of butter. U. S. v. 10 Cases of Butter. Default decree of condemnation. Product ordered to be salvaged for fats. (F. D. C. No. 10803. Sample No. 6880-F.)

This butter contained mold, and was also short weight.

On September 13, 1943, the United States attorney for the Eastern District of Illinois filed a libel against 10 cases, each containing 30 1-pound prints, of butter at St. Rose, Ill., alleging that the article had been shipped in interstate commerce on or about September 8, 1943, by the Schuette Service Stores, from St. Louis, Mo.; and charging that it was adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed substance; and that it was misbranded in that it was short-weight. The article was labeled in part: (Parchment wrapper) "Three S S S Markets Fancy Creamery Butter * * * One Pound Net"; (case) "Packed by P. A. Schulze Co. St. Louis. Mo. * * * 30 Lbs. Net."

On December 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered denatured with kerosene so as to render it unfit for any other use except salvage fats.

5667. Adulteration and misbranding of butter. U. S. v. 11 Cartons and 11 Cartons of Butter. Consent decree of condemnation. Product ordered released under bond for reworking. (F. D. C. No. 10888. Sample No. 8168-F.)

On August 9, 1943, the United States attorney for the Southern District of New York filed a libel against a total of 22 cartons, each containing approximately 68 pounds, of butter at New York, N. Y., alleging that the article had been shipped

on or about July 31, 1943, from Strandquist, Minn., by the Strandquist Creamery Co.; and charging that it was adulterated and misbranded in that it contained less than 80 percent by weight of milk fat. The article was labeled in part: "Butter Distributed by Hunter Walton & Co. * * * New York."

On August 25, 1943, the Strandquist Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released upon deposit of cash collateral or execution of bond, conditioned that it be reworked so that it contain 80 percent of milk fat.

5668. Adulteration and misbranding of butter. U. S. v. 978 Boxes and 50 Cases of Butter. Decrees of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. Nos. 10981, 10982. Sample Nos. 43321–F, 43493–F, 43562–F.)

One lot of this product, 978 boxes, contained less than 80 percent of milk fat, and the other lot was short of the declared weight.

On October 7, 1943, the United States attorney for the District of Kansas filed libels against 978 boxes, each containing 66 pounds, and 50 cases, each containing 32 1-pound prints, of butter, at Kansas City, Kans., alleging that the article had been shipped in interstate commerce within the period from on or about May 29 to September 7, 1943, by the Harding Cream Co. from Kansas City, Mo.; and charging adulteration with respect to the product that contained less than 80 percent of milk fat, and misbranding with respect to the product that was short-weight. The 50-case lot was labeled in part: (Parchment wrapper) "Cudahy's Sweet Cream Butter Net Wt. 1 Pound The Cudahy Packing Co., Chicago, Ill. Distributors." The remaining lot was labeled in part: (Box) "Contents Butter."

On October 14, and November 4, 1943, the Cudahy Packing Co., claimant for the 50 cases, and the Dairy Products Marketing Assn., claimant for the 978 boxes, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law. One lot was satisfactorily reworked and released for sale and one lot was removed from the wrappers, repacked in bulk containers, and sold for use in cookie dough.

5669. Adulteration and misbranding of butter. U. S. v. 25 Cases of Butter. Consent decree of condemnation. Product ordered released under bond for reprocessing. (F. D. C. No. 10985. Sample No. 47610–F.)

On October 11, 1943, the United States attorney for the Eastern District of Illinois filed a libel against 25 cases, each containing 32 pounds, of butter at National Stock Yards, Ill., alleging that the article had been shipped in interstate commerce on or about October 6, 1943, by the Monroe City Creamery from Monroe City, Mo. It was labeled in part: (Carton) "One Pound Net Swift's Brookfield Butter."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter.

It was alleged to be misbranded in that the cartons did not contain 1 pound net as labeled.

On October 25, 1943, the Monroe City Creamery, claimant, having admitted the allegations of the libel, and the court having found that the product was adulterated as alleged and that certain cartons were short-weight, judgment of condemnation was entered and the product was ordered released under bond for reprocessing under the supervision of the Food and Drug Administration. The product was satisfactorily reworked and released for sale.

5670. Misbranding of butter. U. S. v. 10 Cases of Butter. Default decree ordering delivery of the product to charitable institutions. (F. D. C. No. 10645. Sample No. 16070–F.)

On August 5, 1943, the United States attorney for the District of Utah filed a libel against 10 cases, each containing 30 1-pound cartons, of butter at Wellsville, Utah, alleging that the article had been shipped in interstate commerce on or about July 21, 1943, by the Bear Lake Valley Dairymen's Co-op Association from Paris, Idaho; and charging that it was misbranded in that the prints did not contain 1 pound net as labeled. The article was labeled in part: (Carton) "One Pound Net Weight Golden Rod Creamery Butter."

On October 23, 1943, no claimant having appeared, judgment was entered ordering that the product be delivered to charitable institutions.

CHEESE

5671. Adulteration of cheese. U. S. v. 69 Boxes and 75 Boxes of Cheese. Consent decrees of condemnation. Product ordered released under bond for reworking or salvaging. (F. D. C. Nos. 12387, 12421. Sample Nos. 78402–F to 78409–F, incl.)

On May 18 and 26, 1944, the United States attorney for the Northern District of Illinois filed libels against 144 boxes of cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce within the period from on or about July 23 to November 16, 1943, by the Greco Roman Cheese Co. from Stoughton, Wis.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of larvae. The boxes bore various lot numbers and weights.

On June 14 and 26, 1944, the Greco Roman Cheese Manufacturing Co. and C. E. Zuercher & Co., claimants for the respective lots, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond for reworking or salvaging under the supervision of the Food and Drug Administration.

5672. Adulteration of cheese. U. S. v. 2,452 Boxes of Cheddar Cheese. Consent decrees of condemnation. Product ordered released under bond for trimming. (F. D. C. Nos. 10689, 10871. Sample Nos. 38524–F to 38531–F, incl., 38647–F, 38649–F, 38651–F to 38653–F, incl., 38656–F, 38657–F.)

On September 8 and October 9, 1943, the United States attorney for the Northern District of Illinois filed libels against 2,452 boxes of cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce within the period from on or about June 29 to August 24, 1942, by Schmitt Bros. from LaFarge and Boscobel, Wis.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence, in some portions, of cheese mites and contamination from their debris and burrowings, and, in other portions, of mites, beetles and beetle larvae. The boxes were marked with various weight, lot, and factory numbers. One portion was labeled in part: (Box) "State Brand Colored Chidders [or "Chetters"]."

On October 5, 1943, and April 13, 1944, the National Biscuit Company, claimant, having admitted the facts set forth in the libels, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law by trimming off the unfit portions, under the supervision of the Food and Drug Administration.

5673. Adulteration and misbranding of grated cheese. U. S. v. 10 Cases of Grated Cheese (and 4 other seizure actions against grated cheese). Default decrees of condemnation and destruction. (F. D. C. Nos. 10817, 12053 to 12055, incl., 12112. Sample Nos. 20708–F, 51183–F, 51184–F, 76121–F, 79219–F.)

Examination showed that this product contained rodent hair fragments and that one lot, 10 cases, also contained other hair fragments and insect fragments. Examination showed further that the article contained from 15 to 40 percent of added dried skim milk powder.

Between September 23, 1943, and April 1, 1944, the United States attorneys for the Districts of Massachusetts and Connecticut, the Eastern District of Pennsylvania, and the District of Columbia filed libels against 10 cases, each containing 12 jars, of grated cheese at Lynn, Mass., 6½ cases, each containing 12 dozen canisters, of grated cheese at West Haven, Conn., 44 containers and 115 dozen canisters of grated cheese at Philadelphia, Pa., and 30 boxes, each containing 12 canisters, of grated cheese at Washington, D. C., alleging that the article, which had been consigned within the period from on or about August 18, 1943, to February 16, 1944, had been shipped by Wm. Faehndrich, Inc., New York, N. Y.; and charging that it was adulterated and misbranded. It was labeled in part: (Jar) "Famosa Brand Pure Argentina Parmesan Grated Cheese," or (canisters) "Famous Brand * * * Grated Made of Imported and Domestic Cheese."

The product was alleged to be adulterated in that it consisted in whole or in part of a filthy substance; in that dried skim milk had been added to or mixed or packed therewith so as to reduce its quality or strength; and in that substances containing varying amounts of added dried skim milk had been substituted for the article. The lots at Lynn, West Haven, and Washington were alleged to be adulterated further in that they had been prepared and packed under insanitary conditions whereby they might have become contaminated with filth.

All lots were alleged to be misbranded in that the following statements in their respective labelings were false and misleading: (Lynn) "Pure Parmesan Grated Cheese"; (West Haven) "Grated Cheese," and "15% added Milk Solids"; (Philadelphia, 44 containers) "Grated Cheese"; (Philadelphia, 115 dozen canisters) "Grated Cheese," "15% Added Milk Solids," or "An All Cheese Product"; and (Washington) "Grated * * * Cheese * * * An All Cheese Product," or "Grated Cheese * * * 15% added Milk Solids." Misbranding was alleged further with respect to the lots at Lynn and Washington and the lot of 115 dozen canisters at Philadelphia in that they were fabricated from two or more ingredients and their labels failed to bear the common or usual name of each such ingredient.

Between November 22, 1943, and May 12, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5674. Misbranding of Limburger cheese. U. S. v. 5 Cases of Limburger Cheese. Default decree of condemnation. Product ordered sold. (F. D. C. No. 11185. Sample No. 62488–F.)

The labels of this product failed to bear a statement of the quantity of the contents.

On November 24, 1943, the United States attorney for the Eastern District of Missouri filed a libel against 5 cases, each containing about 60 packages, of Limburger cheese at St. Louis, Mo., alleging that the article had been shipped in interstate commerce by the Arn & Zweifel Co. from Monticello, Wis., on or about November 1, 1943; and charging that it was misbranded in that it was a food in package form and failed to bear a label containing an accurate statement of the quantity of the contents. The article was labeled in part: (Wrapper on individual cheese) "Empire Brand Limburger Cheese The Very Best A. C. L. Haase Co. St. Louis, Mo. Distributors."

On December 23, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered sold to the person or corporation who offered the highest bid therefor and would adopt such safeguards as might be directed by the Federal Security Agency against the use of the product in violation of the law.

MILK

5675. Adulteration of evaporated milk. U. S. v. 1,250 Cases of Evaporated Milk. Consent decree of condemnation. Product ordered released under bond for segregation and destruction or denaturing of unfit portion. (F. D. C No. 10443. Sample No. 44323–F.)

On August 23, 1943, the United States attorney for the District of New Jersey filed a libel against 1,250 cases, each containing 48 cans, of evaporated milk at Weehawken, N. J., alleging that the article had been shipped on or about June 4, 1943, from Lockport, N. Y., by FSCC—Lerch Coop. Cold Storage; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Cans) "Borden's Irradiated Evaporated Milk * * * The Borden Company New York, N. Y."

On January 29, 1944, the New York Central Railroad Company, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction or denaturing of the unfit portion.

5676. Adulteration of whole milk powder. U. S. v. 6 Barrels of Dried Whole Milk Powder. Default decree of condemnation and destruction. (F. D. C. No. 11082. Sample No. 56415–F.)

This product had been stored under insanitary conditions after shipment in interstate commerce. The barrels had been attacked by rats and rat excreta was found on and around the barrels.

On November 9, 1943, the United States attorney for the Southern District of New York filed a libel against 6 barrels of dried whole milk powder at Port Chester, N. Y., alleging that the article, which was in the possession of the Brick Oven Bake Shop, had been shipped on or about August 7, 1943, from Thorp, Wis.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of rodent hairs, rodent excreta, and insect fragments, and in that the article had been held under insanitary conditions whereby it might have become contaminated with filth.

On November 23, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On January 5, 1944, an amended decree was entered providing for delivery of the product to a Federal institution for use as feed for hogs.

EGGS

5677. Alleged adulteration of dried whole egg. U. S. v. 7 Barrels of Dried Whole Egg. Tried to the court. Judgment of dismissal entered; affirmed on appeal. (F. D. C. No. 9268. Sample Nos. 32607–F to 32609–F, incl.)

On February 5, 1943, the United States attorney for the Southern District of Indiana filed a libel against 7 barrels, each containing 190 pounds, of dried whole egg at Terra Haute, Ind., alleging that the article had been introduced and was in interstate commerce; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Spray Dried Whole Egg." The facts are set forth in the opinion infra.

On June 2, 1943, Marshall Kirby & Co., Inc., Terre Haute, Ind., having filed its claim and answer and a jury having been waived, and the court having heard the evidence and arguments of counsel, judgment was entered ordering the dismissal of the case for want of jurisdiction. The Government perfected an appeal to the Circuit Court of Appeals for the Seventh Circuit and on March 15, 1944, a decision was handed down by that court, affirming the decision of the District Court:

SPARKS, *Circuit Judge.* "The Government appeals from a judgment dismissing its libel for want of jurisdiction. The libel, alleging adulteration, had been filed against one lot of seven barrels of dried eggs which it sought to condemn under the provisions of § 304 (a) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 334 (a). The claimant by answer asserted ownership of the property and interposed two defenses, first, that the libel failed to state facts indicating that the article seized was introduced into or was in interstate commerce, at the time of the seizure, and second, that the article was not adulterated. The prayer asked for a dismissal of the libel and a return of the libeled goods to the claimant. The issue as to the second count is not before us, and, so far as this record discloses, it was not submitted at the hearing.

"It will be observed that the first count of the answer amounts to nothing more than a demurrer to the complaint, or a motion to dismiss it for lack of sufficient facts. However, neither the court nor the parties so considered it. The parties stipulated that the cause be transferred to the Indianapolis Division of the same District for trial and disposition, which was done. Without objection it was assigned for a day certain for hearing oral testimony, if desired by either party, and oral argument upon the first count of the answer, and a jury trial was waived. A stipulation of facts was filed, and both parties introduced other testimony at the trial. The District Court found the facts specially, rendered its conclusions of law thereon, and entered judgment for claimant dismissing the complaint for lack of jurisdiction. From that ruling this appeal is prosecuted. Under these circumstances we shall treat the question of jurisdiction upon the basis of facts found rather than those pleaded.

"The statute relied upon to confer jurisdiction provides: 'Any article of food * * * that is adulterated or misbranded when introduced into or while in interstate commerce * * * shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found * * *.'

"The subject of the libel was part of 150 barrels of spray-dried whole eggs tendered by appellee to the Federal Surplus Commodities Corporation in part performance of a contract between the parties. The contract here involved was in writing, consisting of four documents executed in the order named: (1) a printed announcement by FSCC that under certain named conditions it would receive and consider offers for the sale of spray-dried whole eggs intended for delivery at any stipulated time until December 31, 1942; (2) an offer by appellee to sell and deliver to the FSCC, at appellee's plant in Terre Haute, Indiana, all or any part of 66,690 pounds of spray-dried whole eggs, on the basis of the terms and conditions of the annonucement; (3) acceptance by the FSCC of appellee's offer, and (4) appellee's confirmation of the acceptance.

"The FSCC announcement consists of more than 21 pages of this printed record. It describes in minute detail the required content, character, and process of production of the eggs and their shipping containers. It required each shipping container to be marked by appellee, before testing the product and its removal from appellee's plant, with the following items of information: Name and type of the product; net weight; FSCC contract number; manufacturer's lot and container numbers; vendor's name and delivery-point address; and the month

and year of manufacture. After testing the product, presently referred to, appellee was required to mark each container with the shipping instructions when and as furnished by the FSCC.

"Sampling and inspection of the product to be tendered for delivery was required to be performed by the Agricultural Marketing Administration. For these services appellee was required to arrange with the AMA. The inspection and weight certificates were to be issued at the expense of appellee and delivered by it to the FSCC. All requirements of the contract as to marking were complied with by appellee except marketing upon the 7 libeled barrels the name and address of the consignee. This was not done because they were rejected by the FSCC and as to them it furnished no legend in that respect. However, other barrels were substituted by appellee for those rejected and they were accepted. Four weeks before this suit was filed, the Public Health Department of Indiana placed an embargo against the movement and control of the seven barrels. That order was in effect when this action was begun, and so far as this record discloses it is still in effect. The libeled product has never been removed from appellee's plant.

"Appellant contends that the contract was a transaction in interstate commerce; that the barrels were marked and set aside as the property to be used in fulfillment of the contract, thus being brought within the exclusive dominion of the out-of-state purchaser, and thereby introduced into commerce within the meaning of the statute. It further contends that the subsequent rejection of the eggs did not remove them from the jurisdiction of the Act or divest them of their interstate character.

"We are not in accord with these contentions. It is clear that the contract is quite conditional in its character. It consists of an accepted offer to deliver at appellee's plant, on or before a certain date, a prescribed amount of eggs of a described character. The eggs here libeled were part of a lot intended for delivery, if accepted, within the time, and at the place named in the contract, in part performance thereof. True, they were marked and set aside in seller's plant. However, they were not thus segregated as the property to be used in fulfillment of the contract, but for inspection and testing to determine whether they complied with the required specifications. This was necesary before there could be an acceptance of the delivery, and before acceptance there could be no dominion of the FSCC over the property.

"The contract provided that the product should be considered ready for delivery on the date the inspection certificate was issued, and not sooner. That provision definitely was of great interest to both parties, and each is entitled to rely upon it. The buyer was entitled to receive that for which it bargained, and we must assume, in the absence of evidence to the contrary, that appellee did not intend that it should lose dominion of or the title to its property, or that the buyer should acquire either, before the required chemical analysis was reported. Certainly we can not assume that appellee, before such report, would intentionally cast its property into the channel of interstate commerce, thereby assuming the unnecessary risk of a lawsuit of this character. The plain and unambiguous language of the contract forbids such an assumption. It seems to us that the only reasons for the required preliminary marking and segregation of the barrels before the inspection and test was that actual delivery might be expedited after the acceptance, and the probability of substitution for any part of the tendered produce, without the knowledge of the FSCC, would be greatly minimized.

"It is quite apparent that the object of the statute is to prevent adulterated articles of food from entering interstate commerce. That object seems to have been fully accomplished long before this libel suit was filed. After the inspection certificate was issued neither party insisted upon a delivery of the seven barrels, and that was as early as a delivery could be made under Article 7 of the contract. Appellee thereupon substituted seven other barrels in their stead and the FSCC accepted them, whereupon the State of Indiana placed an embargo upon the rejected barrels, the effect of which was to prevent their removal from the plant. Hence they could never become a part of interstate commerce.

"We recognize the legal principle that goods may become a part of interstate commerce before transportation begins, and may remain such after transportation ends. The cases bearing on the former enunciate the rule that where goods are purchased in one State for transportation to another, the commerce includes the purchase quite as much as it does the transportation. *Dahnke-Walker Co.* v. *Bondurant*, 257 U. S. 282. There defendant, a resident of Kentucky, contracted to sell and deliver his crop of wheat, F. O. B. cars in Kentucky, to plaintiff, a

resident of Tennessee. Part of it was thus delivered, and payment was advanced for more than was delivered. The market price of wheat advanced, and defendant failed to deliver more. The action was for breach of contract and damages. The seller defended on the ground that plaintiff, a foreign corporation, had not complied with the Kentucky statute with respect to doing business in that State, which was true. The buyer replied that the purchase and sale was a transaction in interstate commerce. The Court so found and held that the Kentucky statute was invalid as to that transaction because repugnant to the commerce clause, and damages for breach of the contract were awarded. There the specific wheat crop was unconditionally purchased, to be paid for upon delivery; the wheat was subject to no subsequent test; the terms of the sale and purchase constituted a completed transaction, subject to no variation, and at that moment it became a part of interstate commerce in strict compliance with the rule above referred to.

"In the instant case, however, the contract did not provide, nor did the parties intend that the eggs segregated and marked prior to the test would then and there become a part of interstate commerce, or that such acts would amount to a sale or delivery of them. On the contrary, the contract provided that the product should not be considered ready for delivery until the inspection certificate was issued, and that eggs tendered for delivery must be accompanied by that certificate. Neither party knew whether they would pass inspection, and neither was permitted legally to sell or purchase eggs for interstate commerce which failed to pass inspection. Hence we conclude that neither title to nor dominion over any part of the eggs tendered for inspection passed to the FSCC until they were accepted, and since the seven barrels did not successfully pass inspection and were not qualified for transportation, and were never accepted, they never became a part of the product which appellee agreed to sell and which the FSCC agreed to purchase, and they were never introduced into interstate commerce. True, the FSCC accepted appellee's written offer to sell and deliver a specified amount of a certain kind of eggs, but it never accepted any part of the eggs submitted for inspection until after they had successfully passed the test.

"In support of its contention, appellant relies on *Hipolite Egg Co.* v. *United States*, 220 U. S. 45, and *United States* v. *25 Packages of Hats*, 231 U. S. 358. In both cases the questions at issue arose at the destination after transportation. We have no quarrel with the principles therein enunciated. However, they do not seem helpful in determining the question here where the sole issue involved relates to the events before transportation. Appellant also relies on *Carter* v. *Carter Coal Co.*, 298 U. S. 238, where the distinction was drawn in regard to federal jurisdiction between goods which were part of a contract of sale in interstate commerce and goods merely intended to be sold in another state. There the Court said: 'One who produces or manufactures a commodity, subsequently sold and shipped by him in interstate commerce, whether such sale and shipment were originally intended or not, has engaged in two distinct and separate activities. So far as he produces or manufactures a commodity, his business is purely local. So far as he sells and ships, or contracts to sell and ship, the commodity to customers in another state, he engages in interstate commerce. In respect to the former, he is subject only to regulation by the state; in respect to the latter, to regulation only by the federal government.'

"We have never questioned the soundness of that principle. It constitutes the basis of our conclusion. We are convinced that if appellee had sold and shipped, or contracted to ship, the seven barrels of eggs to customers in another state it would be held to have engaged in interstate commerce. However, our conclusion is that appellee never sold nor shipped, nor did it contract to sell or ship, to customers in another state the seven barrels of eggs in question."

AFFIRMED.

5678. Adulteration of whole egg powder. U. S. v. 4 Barrels of Whole Egg Powder (and 6 other seizure actions against whole egg powder). Default decree of condemnation and destruction. (F. D. C. Nos. 9323, 9363, 9387, 9389, 9404, 9444, 9445. Sample Nos. 1364–F, 5655–F, 19595–F, 22016–F, 22597–F, 37641–F, 37642–F.)

Between February 5 and 26, 1943, the United States attorneys for the Eastern District of Missouri, the District of Maine, the Eastern and Western Districts of Pennsylvania, the Northern District of Illinois, and the Eastern District of Michigan filed libels against the following amounts of whole egg powder: 4 barrels at St. Louis, Mo., 7 barrels at Portland, Maine, 5 barrels at Pottsville, Pa., 26 barrels at Pittsburgh, Pa., 1 barrel at Chicago, Ill., and 3 barrels at Detroit,

Mich., alleging that the article had been shipped in interstate commerce within the period from on or about December 24, 1942, to February 2, 1943, by T. M. Duche & Sons, Inc., New York, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Duche Golden Fluff [or "Fuffiyolk"] Spray Whole Egg Powder [or "Whole Egg Powder"]."

On June 11, 1943, T. M. Duche & Sons, Inc., claimant, having filed a petition in the Eastern District of Pennsylvania praying consolidation of the several seizure actions and their removal to the Eastern District of New York, an order was entered consolidating and removing the cases as prayed. On March 8, 1944, the claimant having consented, the court for the Eastern District of New York ordered that the claim and answers be withdrawn, the undertakings for costs discharged and default noted, and that the product be condemned and destroyed.

5679. Adulteration of frozen whole eggs. U. S. v. 103 Cartons of Frozen Whole Eggs. Decree of condemnation. Product ordered released under bond for segregation and destruction or denaturing of unfit portion. (F. D. C. No. 11229. Sample No. 23885–F.)

On December 3, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 103 cartons of frozen whole eggs at Philadelphia, Pa., alleging that the article had been shipped on or about October 11, 1943, from East Buffalo, N. Y., by the Buffalo Cold Storage Co.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Packed By Pacific Butter & Egg Co. Ottumwa, Iowa."

On December 29, 1943, the Iowa Pacific Butter & Egg Co., claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction or denaturing of the unfit portion.

5680. Adulteration of frozen whole eggs. U. S. v. 1,344 Cartons of Frozen Eggs. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10755. Sample No. 41122–F.)

On or about September 18, 1943, the United States attorney for the Northern District of Texas filed a libel against 1,344 cartons of frozen whole eggs at Dallas, Tex., alleging that the article had been shipped in interstate commerce on or about June 5, 1943, by the Wichita Ice and Cold Storage Co. from Wichita, Kans.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, decomposed eggs.

On October 25, 1943, the Fort Worth Poultry & Egg Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law or destroyed under the supervision of an employee designated by the Federal Security Administrator. The good portion was separated from the bad and the latter was denatured and disposed of as hog feed.

5681. Adulteration of frozen whole eggs. U. S. v. 87 Cartons of Frozen Whole Eggs. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10680. Sample No. 3760–F.)

On or about September 9, 1943, the United States attorney for the Western District of Missouri filed a libel against 87 cartons of frozen whole eggs at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about July 23, 1943, by the Edward Aaron Co. from Shenandoah, Iowa; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On October 6, 1943, the Edward Aaron Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law under the supervision of the Food and Drug Administration. The unfit portion was segregated and delivered to a rendering company for the recovery of glycerine.

5682. Adulteration of frozen whole eggs. U. S. v. 449 Second-hand Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond for salvaging. (F. D. C. No. 10683. Sample No. 44685–F.)

On September 9, 1943, the United States attorney for the District of New Jersey filed a libel against 449 second-hand cans, each containing 30 pounds, of frozen whole eggs at Jersey City, N. J., alleging that the article had been shipped

on or about June 14, 1943, by the Ballas Egg Products Corp. from Zanesville, Ohio; and charging that it was adulterated in that it consisted in whole or in part of a filthy and decomposed substance because of the presence of decomposed eggs and surface dirt contained in some of the cans.

On October 23, 1943, the Harrison Baking Co. Inc., having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed or treated so that it could not be used for human consumption, under the supervision of the Food and Drug Administration.

5683. Adulteration of frozen whole eggs. U. S. v. 673 Cans of Whole Eggs. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10700. Sample No. 43346–F.)

On September 13, 1943, the United States attorney for the Western District of Missouri filed a libel against 673 cans of whole eggs at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about June 14, 1943, by the Fort Worth Poultry and Egg Co. from Wichita, Kans.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "Packed by Kepner Poultry and Egg Co., Wichita, Kansas."

On November 5, 1943, the Fort Worth Poultry and Egg Co., Inc., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of the Federal Food and Drug Administration. The unfit portion was thereafter segregated and disposed of for use as hog feed.

5684. Adulteration of frozen whole eggs. U. S. v. 1,620 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond for purposes of salvage. (F. D. C. No. 10728. Sample No. 44686–F.)

On September 11, 1943, the United States attorney for the Eastern District of New York filed a libel against 1,620 cans, each containing 30 pounds, of frozen whole eggs at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about August 5, 1943, by the De Soto Creamery & Produce Company, Fargo, N. Dak.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Tag) "From Fargo Creamery & Produce Co. * * * Fargo, North Dakota."

On October 11, 1943, the De Soto Creamery & Produce Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregating and denaturing the unfit portion, under the supervision of the Federal Security Agency.

5685. Adulteration of frozen whole eggs and adulteration and misbranding of frozen sugared egg yolks. U. S. v. 450 Cartons and 7 Cartons of Frozen Whole Eggs and 156 Cartons of Frozen Sugared Egg Yolks. Decrees of condemnation. Portion of product ordered destroyed; remainder ordered released under bond for segregation and relabeling. (F. D. C. Nos. 10966, 12044. Sample Nos. 51237–F, 51238–F, 76525–F.)

On October 18, 1943, and March 24, 1944, the United States attorneys for the District of Massachusetts and the Southern District of New York filed libels against 450 30-pound cartons of frozen whole eggs and 156 30-pound cartons of frozen sugared egg yolks at Springfield, Mass., and 7 30-pound cartons of frozen whole eggs at New York, N. Y., alleging that the articles had been shipped on or about August 6, 1943, from Detroit, Mich., and on or about January 6, 1944, from St. Louis, Mo., by Frigid Food Products, Inc.; and charging that they were adulterated and that the sugared egg yolks were also misbranded. They were labeled in part: (Carton) "Frigidegs Frozen Strickly Fresh * * * Whole Eggs," "Frigidegs Frozen Strictly Fresh Sugared Egg Yolks Approx. 10% Sugar Added Contains Egg Yolks & Whites," or "Fr Egs added Sugar Whole Eggs."

Both lots of frozen whole eggs were alleged to be adulterated in that they consisted in whole or in part of a decomposed substance. The frozen sugared egg yolks were alleged to be adulterated in that a product which consisted of egg yolks with added egg whites and sugar had been substituted for egg yolks with approximately 10 percent sugar added, which it purported and was represented to be.

The egg yolks were alleged to be misbranded in that the name "Sugared Egg Yolks" was misleading as applied to a product which was a mixture of egg yolks and egg whites with added sugar, and the misleading character of the state-

ment was not corrected or relieved by the statement "Contains Egg Yolks and Whites," which appeared in much smaller type two lines below the prominently displayed words "Sugared Egg Yolks"; and in that they were offered for sale under the name of another food, "Sugared Egg Yolks."

On November 3, 1943, Frigid Food Products, Inc., claimant for the 2 lots at Springfield, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond to be reconditioned, in the case of the lot that was in part decomposed, by separating the fit portion from the unfit portion, and, in the case of the egg yolks, by properly relabeling the cartons under the supervision of the Food and Drug Administration. On April 11, 1944, no claimant having appeared for the 7 cartons seized at New York, judgment of condemnation was entered and the product was ordered destroyed.

5686. Adulteration of shell eggs. U. S. v. 487 Crates of Eggs. Consent decree of condemnation. Product ordered released under bond for salvaging. (F. D. C. No. 10810. Sample No. 56646–F.)

On September 22, 1943, the United States attorney for the District of New Jersey filed a libel against 487 second-hand crates, each containing 30 dozen eggs, at Jersey City, N. J., alleging that the article had been shipped on or about July 29, 1943, by the Irving Manaster Co. from McPherson, Kans.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On October 23, 1943, the Larry Oshin Co., New York, N. Y., claimant, having admitted allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be separated and destroyed or denatured under the supervision of the Federal Security Agency.

FEEDS AND GRAINS*

5687. Misbranding of calf meal. U. S. v. Frank E. Moore and L. Virginia Moore (Hilltop Farm Feed Co.). Pleas of guilty. Fine of $20 which included both defendants. (F. D. C. No. 10588. Sample No. 8741–F.)

On December 13, 1943, the United States attorney for the District of Minnesota filed an information against Frank E. Moore and L. Virginia Moore, individuals trading as copartners under the firm name Hilltop Farm Feed Co., at Minneapolis, Minn., alleging shipment on or about March 9, 1943, from the State of Minnesota into the State of Wisconsin of a quantity of calf meal that was misbranded. The article was labeled in part: "Hilltop Calf Meal For raising calves economically without milk. Prevents scours and keeps them growing rapidly * * * Guaranteed analysis Protein not less than 24%. Fat—not less than 4.5%. Fiber not over 5%."

The article was alleged to be misbranded in that the statements, "Protein not less than 24%. Fat—not less than 4.5%," were false and misleading since it contained not more than 20.94 percent of protein, and not more than 3.64 percent of fat.

The product was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in drugs and devices notices of judgment.

On December 13, 1943, the defendants having entered pleas of guilty, the court imposed a fine of $20 which included both defendants.

5688. Misbranding of Mutual Compound. U. S. v. Joseph C. Winslow and Stephen R. Winslow (Mutual Products Co.). Plea of guilty. Fine, $100. (F. D. C. No. 8752. Sample No. 76895–E.)

This product consisted essentially of a mixture of wheat, corn, and oat products, dry milk, small amounts of salt, sugar, reducing sugars, yeast, iodide, calcium, iron, phosphate compounds, anise, and resinous material. It contained 19.44 percent of crude protein, 4.08 percent of crude fat and 3.38 percent of crude fiber.

On February 6, 1943, the United States attorney for the District of Minnesota filed an information against Joseph C. Winslow and Stephen R. Winslow, trading as the Mutual Products Co., Minneapolis, Minn., alleging shipment on or about March 3, 1942, from the State of Minnesota into the State of Wisconsin of a quantity of food, known as Mutual Compound, which was misbranded.

The article was alleged to be misbranded in that the statements appearing in its labeling which represented and suggested that, when fed to calves as di-

*See also No. 5796.

rected in place of whole milk, it would give the same results as would whole milk; that, when used as directed, it would give feeding results equal to those resulting from the use of separated milk; that it would give skim milk feeding results when fed to pigs; that it would give separated milk feeding results at less than half the cost of separated milk; that, when fed as directed, it would insure rapid growth in calves, pigs, and poultry; and that results obtained from feeding 1 pound of the article would equal the results obtained from feeding 85 pounds of separated milk were false and misleading since it would not give the results claimed.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices.

On February 6, 1943, the defendants entered a plea of guilty and the court imposed a fine of $100, which was applicable to both defendants.

5689. Misbranding of Dr. MacDonald's Vitamized Chick & Growing Mash Maker, and adulteration and misbranding of Dr. MacDonald's Vitamized Egg Mash Maker and Dr. MacDonald's Vitamized Metabolators for Dairy Cattle, Swine, Calves, Beef Cattle, and Sheep. U. S. v. 9 Bags of the Egg Mash Maker, 8 Bags of the Chick & Growing Mash Maker, and the following quantities of the Vitamized Metabolators: For Dairy cattle, 23 bags; for swine, 101 bags; for calves, 1 bag; for beef cattle, 27 bags; for sheep, 10 bags. Decrees of condemnation. Products ordered released under bond for relabeling. (F. D. C. Nos. 10951, 11085. Sample Nos. 8241–F, 8242–F, 8565–F, 8566–F, 8568–F to 8570–F, incl.)

On October 22 and November 10, 1943, the United States attorney for the District of Minnesota filed libels against a total of 179 100-pound bags of the above-named products at St. Paul, Minn., alleging that they had been shipped in interstate commerce on or about March 20, May 14, and September 22, 1943, by the Vitamized Feed Co., Fort Dodge, Iowa; and charging that the Chick & Growing Mash Maker was misbranded and that the other products were adulterated and misbranded.

Examination of the Egg Mash Maker showed that it consisted of ground limestone, salt, charcoal, sulfur, and small amounts of iron sulfate, copper sulfate, sodium bicarbonate, potassium iodide, oil, and plant material including ginger. The iodine content was not more than 0.03 percent. It was alleged to be adulterated in that a valuable constituent, iodine, had been in part omitted therefrom. It was alleged to be misbranded in that the statement in its labeling, "Iodine (I) Not Less Than . . . .03906 Per Cent," was false and misleading as applied to a product deficient in iodine. It was alleged to be misbranded further in that certain statements in its labeling which represented and suggested that the article, when fed to poultry, was effective to produce high egg production, and would increase vitality, insure greater hatchability of eggs, improve utilization of food, and prevent or correct many nutritional deficiency diseases were false and misleading since the article was not so effective.

Examination of the Chick & Growing Mash Maker showed that it consisted essentially of ground limestone, salt, charcoal, sulfur, and small proportions of iron sulfate, iron oxide, copper sulfate, sodium thiosulfate, sodium bicarbonate, potassium iodide, oil, yeast, plant material including a cereal, and ginger. It was alleged to be misbranded in that certain statements in its labeling, which suggested and implied that the article was vitamized; that it would stop chick losses; that it would prevent any disease condition of chicks or chickens; that it would help to keep the chicks in good health; that it would help to produce healthy, mature birds in the shortest possible time; that it was a balancer of feeds; that it would reduce mortality due to unbalanced feeds; that it would increase egg production and build greater resistance to disease; that it would help guard against chick mortality; that it would help to grow chicks at a faster rate in a shorter period of time at less cost; that it would increase the flow of digestive juices and body secretions; that it would build strong, vigorous, thrifty chicks; that it would promote strong bone structure, rapid growth, and improve flock health and vigor; that it would ward off nutritional deficiency diseases; and that it would build up resistance against infectious diseases, were false and misleading since the use of the article would not effect the results suggested or implied by such statements.

Examination of the Metabolator for Dairy Cattle showed that it consisted essentially of ground limestone, salt, charcoal, sulfur, and small proportions of iron sulfate, copper sulfate, sodium bicarbonate, potassium iodide, oil, and plant material including ginger, fenugreek, and anise. The phosphorus content was not more than 2.85 percent and the iodine content was not more than 0.034

percent. It was alleged to be adulterated in that the valuable constituents, iodine and phosphorus, had been in part omitted therefrom. It was alleged to be misbranded in that the statements in its labeling, "Phosphorus (P) Not Less Than . . . 5%," and "Iodine (I) Not Less than . . . .0625%," were false and misleading as applied to a product containing less phosphorus and less iodine than stated; and in that the statements in its labeling which represented and suggested that the article would promote metabolism; and that, when fed to cows and calves, it would be effective to increase milk production, and would promote better digestion and assimilation of foods, insure health and production of sturdy calves, and lower feed costs by increasing utilization of foods, were false and misleading since the article was not so effective.

Examination of the Metabolator for Swine showed that it consisted essentially of ground limestone, salt, charcoal, sulfur, and small proportions of iron sulfate, sodium thiosulfate, copper sulfate, sodium bicarbonate, potassium iodide, oil, yeast, plant material including fenugreek, and a cereal. It was found to contain not more than 0.01 percent of iodine, whereas its label stated that it contained not less than .0625 percent of iodine. It was alleged to be adulterated in that a valuable constitutent, iodine, had been in whole or in part omitted or abstracted therefrom. It was alleged to be misbranded in that the statements appearing in its labeling which suggested or implied that it was vitamized; that it would promote metabolism; that it would prevent death losses; that it would insure against losses due to any causes; that it would prevent pigs from developing white and black scours; that it was effective in the treatment of the disease condition known as necro; that it would increase benefits of home grown grains; that it would help improve health of stocks through better nutrition; that it would increase the profits from swine; that it would increase reproductive ability; that it would insure large litters of husky pigs; that it would improve the digestive ability of feeds and increase the flow of saliva and digestive juices; that it would produce a better utilization of the feed; that it would prevent the disease conditions known as scours, pneumonia, worms, necro enteritis, or any other contagious diseases; that it would help produce big, strong, healthy litters; that it would increase the milk production of sows; that it would help produce strong and healthy pigs; and that it would save pigs and would help to combat scours, necro, worms, or other pig diseases, were false and misleading since the use of the article would not effect the results suggested or implied by such statements.

Examination of the Metabolator for Calves showed that it consisted essentially of ground limestone, charcoal, sulfur, salt, and small proportions of iron sulfate, sodium thiosulfate, copper sulfate, sodium bicarbonate, oil, yeast, and plant material, including fenugreek, anise, and a cereal. It was found to contain not more than 3.11 percent of phosphorus and not more than 0.038 percent of iodine, whereas its label stated that it contained not less than 4.5 percent of phosphorus and not less than .0625 percent of iodine. It was alleged to be adulterated in that the valuable constituents, iodine and phosphorus, had been in whole or in part omitted or abstracted therefrom. It was alleged to be misbranded in that the statements appearing in its labeling which suggested or implied that it was vitamized; that it would promote metabolism; that it would prevent or cure scours in calves; and that it would prevent scours due to vitamin A and B deficiencies were false and misleading since the use of the article would not effect the results suggested or implied by such statements.

Examination of the Metabolator for Beef Cattle showed that it contained charcoal, ground limestone, salt, sulfur, and small proportions of iron sulfate, copper sulfate, sodium thiosulfate, sodium bicarbonate, potassium iodide, oil and plant material, including fenugreek, anise ginger, and a cereal. It was found to contain 0.040 percent of iodine, whereas its label stated that it contained not less than .0625 percent of iodine. It was alleged to be adulterated in that a valuable constituent, iodine, had been in whole or in part omitted or abstracted therefrom. It was alleged to be misbranded in that the statements appearing in its labeling which suggested or implied that the article was vitamized; that it would promote metabolism; that it would help promote better digestion and assimilation of feed; that it would help keep the animal on full feed; that it would help stimulate the flow of saliva and other important digestive juices; that it would produce rapid growth, health, and reproduction; that it would promote nutritional balance; and that it would promote a smoother or more even flesh, and a glossy coat of hair, were false and misleading since the use of the article would not affect the results suggested or implied by such statements.

Examination of the Metabolator for Sheep showed that it consisted essentially of ground limestone, salt, charcoal, sulfur, and small proportions of iron sulfate, sodium thiosulfate, copper sulfate, sodium bicarbonate, potassium iodide, oil, yeast, and plant material including anise, fenugreek, ginger, and a cereal. The iodine content was not more than 0.038 percent, whereas its label stated that it contained not less than .0625 percent of iodine. It was alleged to be adulterated in that a valuable constituent, iodine, had been in whole or in part omitted or abstracted therefrom. It was alleged to be misbranded in that the statements appearing in its labeling which suggested or implied that the article was vitamized; that it would promote metabolism; that it would make sheep, wool, and mutton production profitable; that it would produce husky lambs; that it would increase the milk flow at lambing time; that it would help the reproductive processes; that it would produce better utilization of food; that it would stimulate the appetite; and that it would produce a fine finish and high-quality carcass were false and misleading since the use of the article would not effect the results suggested or implied by such statements.

The articles, with the exception of the Metabolator for Dairy Cattle, were alleged to be misbranded also under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices.

On December 14 and 22, 1943, the Vitamized Feed Company, claimant, having admitted the material allegations of the libels, judgments of condemnation were entered and the products were ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

5690. Adulteration and misbranding of frozen eel pout fillets. U. S. v. 143 Cartons of Frozen Eel Pout Fillets (and 3 other seizure actions against frozen eel pout fillets). Default decrees of condemnation and destruction. (F. D. C. Nos. 12309, 12351, 12379, 12436. Sample Nos. 76417–F, 76418–F, 82001–F, 82002–F, 82004–F.)

On May 4, 12, 17, and 26, 1944, the United States attorney for the Southern District of New York filed libels against 193 cartons, each containing 15 pounds, 103 boxes, each containing 15 pounds, and 74 cartons, each containing 20 pounds, of frozen eel pout fillets at New York, N. Y., alleging that the article had been shipped within the period from on or about March 1 to 25, 1944, by the Star Fillet Co., Provincetown, Mass.; and charging that it was adulterated and that some portions were misbranded. One portion was labeled in part: "Skinless Pout Fillet Slade-Gorton Commonwealth Cold Storage Boston Mass." The remainder was unlabeled except for net weight statements punched on the end of the cartons.

All lots were alleged to be adulterated in that the article consisted in whole or in part of a filthy substance since it contained parasitized fish, and in that it was in whole or in part of the product of a diseased animal.

Some portions were alleged to be misbranded in that the article was in package form and failed to bear a label that contained the name and place of business of the packer or distributor, and in that the label failed to bear the common or usual name of the food. Some portions were further misbranded in that the statement "Net Wt. 10 Lbs" was false and misleading as applied to a carton that contained 15 pounds, and in that it was food in package form and failed to bear a label that contained an accurate statement of the quantity of the contents.

On May 27, and June 6 and 12, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5691. Adulteration and misbranding of frozen eel pout fillets. U. S. v. 146 Boxes and 132 Cartons of Frozen Eel Pout Fillets. Default decrees of condemnation and destruction. (F. D. C. Nos. 12461, 12462. Sample Nos. 82006–F, 82008–F.)

On or about May 31 and June 9, 1944, the United States attorney for the Southern District of New York filed libels against 146 boxes and 132 cartons, each containing 10 pounds, of frozen eel pout fillets at New York, N. Y., alleging that the article had been shipped on or about May 18 and 23, 1944, by the Dartmouth Fillet Corporation, New Bedford, Mass.; and charging that it was adulterated and that one portion was also misbranded. One lot was unlabeled.

Both lots were alleged to be adulterated in that the article consisted in whole or in part of a filthy substance by reason of the presence of parasitized eel pout

fillets, and in that it was in whole or in part the product of a diseased animal.

One portion of the article was alleged to be misbranded in that it was in package form and failed to bear a label which contained the name and place of business of the packer or distributor; in that it was in package form and failed to bear a label which contained an accurate statement of the quantity of the contents; and in that its label failed to bear the common or usual name of the food.

On June 23 and 26, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5692. Adulteration of frozen ocean pout. U. S. v. 492 Boxes of Pout Fillets. Default decree of condemnation and destruction. (F. D. C. No. 9963. Sample No. 38290–F.)

On May 19, 1943, the United States attorney for the Northern District of Illinois filed a libel against 492 boxes of pout fillets at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about May 4, 1943, by the Slade Gorton Co., from Boston, Mass.; and charging that it was adulterated in that it consisted in whole or in part of a filthy or decomposed substance, parasitized and diseased and decomposed fish, and in that it was in whole or in part the product of a diseased animal. The article was labeled in part: "Pout Fillet * * * Seakist Brand Fish Busalacchi Bros. Inc. Boston, Mass."

On June 14, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5693. Adulteration of frozen mullets. U. S. v. 294 Cases of Frozen Mullets. Default decree of condemnation and destruction. (F. D. C. No. 10251. Sample No. 10858–F.)

On July 15, 1943, the United States attorney for the Northern District of California filed a libel against 294 cases, each containing approximately 130 pounds, of frozen mullets at San Francisco, Calif., alleging that the article had been shipped in interstate commerce from Winnipeg, Canada, on or about June 15, 1943, by the Atlantic Fish and Oyster Co.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On January 8, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5694. Adulteration of frozen fish. U. S. v. 192 Boxes and 193 Boxes of Croakers. Consent decree of condemnation. Product ordered released under bond for segregation and sale of unfit portion for use other than human consumption. (F. D. C. Nos. 11215, 11245. Sample Nos. 34589–F, 34593–F.)

On or about December 6 and 11, 1943, the United States attorney for the Southern District of Florida filed libels against 385 boxes, each containing 100 pounds, of croakers at Jacksonville, Fla., alleging that the article had been shipped on or about May 6 and 13, 1943, from Crisfield, Md., by John T. Handy Co., Inc.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

The Florence Fish & Oyster Co., Florence, S. C., having appeared as claimant, and the libels having been consolidated, the case came on for trial before the court on January 17, 1944. The trial continued through January 18, but before its completion the claimant and the Government agreed upon the terms of a final decree. On January 19, 1944, the court entered its finding that the product was adulterated and ordered that it be condemned, but provided that it might be released under bond, conditioned that the unfit portion be segregated for sale as crab bait or disposition other than human consumption.

5695. Adulteration of frozen ocean perch fillets. U. S. v. 765 Boxes of Frozen Fish Fillets. Default decree of condemnation and destruction. (F. D. C. No. 10818. Sample No. 20033–F.)

On September 24, 1943, the United States attorney for the District of Massachusetts filed a libel against 765 10-pound boxes of frozen fish fillets at Boston, Mass., alleging that the article had been shipped on or about September 8, 1943, by Feyler's, Inc., from Rockland, Maine; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Shipping carton) "Seafresh Trade Mark Quick Frozen Fish Packed By General Seafoods Corporation, Boston, Mass. * * * Ocean Perch."

On November 22, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5696. Adulteration of frozen ocean whiting. U. S. v. 251 Cartons of Frozen Ocean Whiting. Decree of condemnation and destruction. (F. D. C. No. 10866. Sample No. 38597–F.)

On October 5, 1943, the United States attorney for the Eastern District of Wisconsin filed a libel against 251 cartons, each containing 50 pounds, of frozen ocean whiting at Milwaukee, Wis., alleging that the article had been transported in interstate commerce on or about September 2, 1943, by the B. A. Griffin Co., Associated Fisheries, from Barnstable, Mass.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Cartons) "Frospac Frozen Ocean Whiting (Provincetown Whiting)."

On October 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5697. Adulteration of frozen fish. U. S. v. 984 Boxes and Cartons of Mackerel, 1,692 Boxes of Whiting, 969 Boxes and Cartons of Whiting or Mackerel, and 20 Boxes of Whiting. Default decrees of condemnation. Product ordered delivered to a State agency for use as fish food. (F. D. C. Nos. 10882, 10883. Sample Nos. 39246–F, 39247–F, 39497–F, 39498–F.)

On October 6, 1943, the United States attorney for the Southern District of California filed libels against 3,665 boxes and cartons of whiting and mackerel at Los Angeles, Calif., alleging that the articles had been shipped in interstate commerce on or about August 17, 1943, by Frost King Foods from Gloucester, Mass.; and charging that they were adulterated in that they consisted in whole or in part of decomposed substances. Portions of the articles were labeled in part: (Mackerel) "Frosted Fillets Cello Mackerel Progressive Fillet Co., Gloucester, Mass.," or (whiting) "Quickly Frozen Butterfly Whiting Independent Fish Co. Gloucester, Mass."

On November 9, 1943, no claimant having appeared, judgments of condemnation were entered and the products were ordered delivered to the Fish and Game Commission of the State for use as fish food.

5698. Adulteration of frozen shrimp. U. S. v. 19 Boxes of Frozen Shrimp. Default decree of condemnation and destruction. (F. D. C. No. 10732. Sample No. 22851–F.)

On September 11, 1943, the United States attorney for the District of New Jersey filed a libel against 19 boxes, each containing 100 pounds, of frozen shrimp at Beach Haven, N. J., alleging that the article had been shipped on or about August 16, 1943, by the McDonnell Fish Co., Inc. (Flag Fish Co.), from New York, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: "L. P. Maggioni & Co. * * * Savannah Ga."

On November 27, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5699. Adulteration of frozen shrimp. U. S. v. 196 Cartons, 398 Cartons, and 298 Cartons of Frozen Shrimp. Default decree of condemnation and destruction. (F. D. C. No. 10671 to 10673, incl. Sample Nos. 38437–F, 38439–F, 38440–F.)

On September 8, 1943, the United States attorney for the Northern District of Illinois filed a libel against 892 cartons of frozen shrimp at Chicago, Ill., alleging that the article had been shipped on or about August 4, 1943, by the Biloxi Seafood Shippers Association from Biloxi, Miss.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance because of the presence of decomposed shrimp. The article was labeled in part: (Carton) "Gulffresh Brand Frozen Fresh Shellfish Shrimp Distributed by Union Fisheries Inc Biloxi Mississippi."

On October 11, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5700. Adulteration of frozen peeled shrimp. U. S. v. 430 Cases, 109 Cases, and 1,686 Cases of Frozen Peeled Shrimp. Decrees of condemnation. Product ordered released under bond for segregating the good portion from the bad. (F. D. C. Nos. 10847, 10878. Sample Nos. 39244–F, 55514–F, 55516–F, 55517–F.)

On September 27 and October 11, 1943, the United States attorneys for the Southern District of California and the Western District of Washington filed libels against 430 cases, each containing 10 5-pound cartons, of frozen peeled shrimp at Los Angeles, Calif., and 1,795 cases, each containing 24 packages, of frozen peeled shrimp at Seattle, Wash., alleging that the article had been shipped

in interstate commerce on or about August 30 and September 2 and 4, 1943, from Hammond, La., by the Otto L. Kuehn Co.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. A portion of the article was labeled in part: (Packages and cases) "Coast Frozen Brand Frozen Shrimp." The remainder was labeled in part: (Cartons) "Frozen Fresh Gulf Shrimp CF Brand Coast Frozen * * * Walter M. Hudson * * * New Orleans, La."

On November 1 and 9, 1943, the San Juan Fishing & Packing Co. having appeared as claimant for the lots at Seattle, and having consented to the entry of a decree against those lots, and Otto L. Kuehn Co., claimant for the lot at Los Angeles, having admitted the allegations of the libel against that lot, judgments of condemnation were entered and the product was ordered released under bond for the segregation of the good portion from the bad under the supervision of the Food and Drug Administration.

5701. Adulteration of frozen headless shrimp. U. S. v. 5 Barrels of Frozen Headless Shrimp. Default decree of condemnation and destruction. (F. D. C. No. 10782. Sample No. 38454–F.)

On September 18, 1943, the United States attorney for the Northern District of Illinois filed a libel against 5 barrels of frozen headless shrimp at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about June 25, 1943, by the Crawford Packing Co. from Palacios, Tex., and J. R. Steed from Lake Charles, La.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance.

On November 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5702. Adulteration of anchovies. U. S. v. 6 Cases of Anchovies. Default decree of condemnation and destruction. (F. D. C. No. 10506. Sample No. 43122–F.)

On August 28, 1943, the United States attorney for the District of Oregon filed a libel against 6 cases, each containing 12 jars, of anchovies at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about July 9, 1943, by San Juan Fish, from Seattle, Wash.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. It was labeled in part: (Jar lid) "Swedish Style Delicatessen Anchovies * * * Packed for A. V. Peterson Co., Seattle."

On October 5, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5703. Adulteration of anchovies. U. S. v. 25 Cases of Anchovies. Default decree of condemnation and destruction. (F. D. C. No. 10751. Sample No. 43038–F.)

On September 14, 1943, the United States attorney for the District of Oregon filed a libel against 25 cases, each containing 12 jars, of anchovies at Portland, Oreg., alleging that the article had been shipped on or about June 8 and July 27, 1943, by A. V. Peterson from Seattle, Wash.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Jar lid) "Swedish Style Delicatessen Anchovies."

On November 10, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5704. Adulteration of canned herring. U. S. v. 120 Cases of Canned Herring. Default decree of condemnation and destruction. (F. D. C. No. 10921. Sample No. 40837–F.)

On October 11, 1943, the United States attorney for the Southern District of Alabama filed a libel against 120 cases, each containing 24 cans, of herring at Mobile, Ala., alleging that the article had been shipped in interstate commerce on or about June 8, 1943, by A. W. Sisk & Son from Richmond, Va.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Can) "Indian Creek Brand * * * Herring * * * Packed By A. L. Palmer Kilmarnock, Virginia," or "Potomac Brand * * * Herring * * * Packed By James A. Lewis Avalon, Virginia."

On November 2, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5705. Adulteration of canned mackerel and canned fillets of salt mackerel. U. S. v. 184 Cases of Canned Mackerel (and 6 other seizure actions involving canned mackerel and canned fillets of salt mackerel). Decrees of condemnation. Product ordered released under bond for segregation and destruction of unfit portion. (F. D. C. Nos. 10886, 10887, 11089 to 11095, incl., 11123, 11124, 11251, 11252. Sample Nos. 11154–F, 11898–F to 11900–F, incl., 29712–F, 29713–F, 29781–F, 55432–F, 55903–F, 57350–F, 57351–F, 57359–F, 57360–F.)

Between October 7 and December 8, 1943, the United States attorneys for the Western District of Washington, the Northern District of California, and the Southern and Eastern Districts of New York filed libels against the following lots of canned mackerel and canned salt mackerel fillets: 184 cases at Seattle, Wash., and 34 cases at Tacoma, Wash. (each case containing 24 15-ounce cans of mackerel), 1,677 cases at San Francisco, Calif., 307 cases at Oakland, Calif., 69 cases at New York, N. Y. (each case containing 12 cartons, each containing 1 12-ounce can of fillets of salt mackerel), and 548 cartons at New York, N. Y., and 203 cartons at Bronx, N. Y. (each containing a 12-ounce can of fillets of salt mackerel), alleging that the articles had been shipped on or about July 10 and September 18 and 20, 1943, by the Tupman-Thurlow Sales Co., Inc., from Gloucester, Mass.; and charging that they were adulterated in that they consisted wholly or in part of a decomposed substance. The articles were labeled in part: (Can) "Atlantic Ocean Mackerel Packed By Davis Bros. Fisheries Co., Inc. Gloucester, Mass," or (carton) "Fillets of Salt Mackerel * * * Davis Bros. Fisheries Co., Inc. Gloucester, Mass."

On November 2 and 24, 1943, and February 9 and 14, 1944, the libels at Seattle and Tacoma having been consolidated, and the Tupman-Thurlow Sales Co., Inc., having appeared as claimant in said actions and also in the action against the lots located at San Francisco and Oakland; and Neuman & Schwiers Co., Inc., Gimbel Brothers, Inc., and Manhattan Grocery Co., Inc., New York, N. Y., and Thomas Roulston, Inc., Brooklyn, N. Y., having appeared as claimants respectively in the remaining actions, judgments of condemnation were entered and the products were ordered released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration. The products were reconditioned by sorting out the unfit portion and destroying it.

5706. Adulteration of canned mackerel. U. S. v. 54 Cases, 87 Cases, and 93 Cases of Mackerel. Default decrees of condemnation and destruction. (F. D. C. Nos. 10724 to 10726, incl. Sample Nos. 47201–F to 47203–F, incl.)

On September 10, 1943, the United States attorney for the Western District of Tennessee filed libels against 234 cases, each containing 24 cans, of mackerel at Memphis, Tenn., alleging that the article had been shipped in interstate commerce on or about June 18, 1943, by the B. A. Griffin Co., Inc., from Barnstable, Mass.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance which rendered it unfit for food. The article was labeled in part: (Cans) "Griffin's Atlantic Ocean Mackerel * * * Packed For B. A. Griffin Co. Inc., Milwaukee, Wis."

On November 19, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5707. Adulteration of tuna fish spread and salmon salad. U. S. v. 5 Cases of Tuna Fish Spread and 26 Cases of Salmon Salad. Default decree of condemnation and destruction. (F. D. C. No. 10390. Sample Nos. 42953–F, 42954–F.)

On August 19, 1943, the United States attorney for the Western District of Washington filed a libel against 5 cases and 26 cases, each containing 24 jars, of tuna fish spread and salmon salad, respectively, at Seattle, Wash., alleging that the articles had been shipped in interstate commerce on or about May 28, 1943, from Brooklyn, N. Y., by the Delca Fish Preservators, Inc.; and charging that they were adulterated in that they consisted in whole or in part of decomposed substances. The articles were labeled in part: (Jar) "Delca Brand."

On January 27, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FRUITS AND VEGETABLES

CANNED AND DRIED FRUIT

5708. Adulteration of canned blueberries. U. S. v. 350 Cases and 188 Cases of Canned Blueberries. Consent decree of condemnation. Product ordered released under bond for segregation of the fit from the unfit portion. (F. D. C. Nos. 10860, 10940. Sample Nos. 37347–F, 37354–F.)

On October 1 and 14, 1943, the United States attorney for the District of Maryland filed libels against 538 cases, each containing 6 cans, of blueberries at Baltimore, Md., alleging that the article had been shipped on or about August 23, 1943, by G. M. Allen & Son from Ellsworth and North Sedgwick, Maine; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of maggots. The article was labeled in part: (Can) "Allen's Blueberries."

On November 12, 1943, Roy Allen, North Sedgwick, Maine, having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond for segregation of the fit from the unfit portion under the supervision of the Food and Drug Administration. The unfit portion was destroyed and the remainder released to the claimant.

5709. Adulteration of dried cherries. U. S. v. West Coast Fruit Co., Harry T. Larsen, Springbrook Packing Co. Cooperative and Victor Rees. Pleas of guilty. Total fines, $55. (F. D. C. No. 9694. Sample Nos. 18846–F, 18847–F.)

On October 23, 1943, the United States attorney for the District of Oregon filed an information against the West Coast Fruit Co., a corporation, Springbrook, Oreg., and Harry T. Larsen, president of that company, and the Springbrook Packing Co. Cooperative, a corporation, at Springbrook, Oreg., and Victor Rees, manager of the latter corporation, alleging shipment on or about September 15, 1942, from the State of Oregon into the State of New York of a quantity of dried cherries. The article was labeled in part: "Dried Black Cherries Unpitted."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed substance by reason of the presence therein of rodent-like hairs, insects, worm fragments, insect fragments, mites, larva, and fruit containing rotten spots and mold.

On January 11, 1944, the defendants having entered pleas of guilty, the court imposed fines of $30 upon the West Coast Fruit Co., $10 upon Harry Larsen, $14 upon the Springbrook Packing Co. Cooperative, and $1 upon Victor Rees, a total of $55.

5710. Misbranding of canned cherries. U. S. v. 34 Cases of Canned Cherries (and 3 other seizure actions against canned cherries). Decree of condemnation entered against 1 lot, and orders entered with respect to all lots releasing the product under bond for relabeling. (F. D. C. Nos. 10747, 10748, 10962, 11728. Sample Nos. 16089–F, 16091–F to 16093–F, incl., 36696–F, 42877–F.)

On September 18 and October 20, 1943, and January 28, 1944, the United States attorney for the District of Idaho filed libels against the following quantities of canned cherries: 527 cases at Twin Falls, Idaho, 218 cases at Boise, Idaho, and 104 cases at Pocatello, Idaho, alleging that the article had been shipped in interstate commerce within the period from on or about August 7 to 20, 1943, by the Perry Canning Co. from Perry, Utah; and charging that it was misbranded. It was labeled in part: (Cans) "Nation's Garden Brand * * * Red Sour Pitted Cherries Packed for Fine Foods, Inc., Seattle Minneapolis," "Gateway Brand Sour Pitted Red Cherries," or "Mountain Made Sour Pitted Red Cherries."

The article was alleged to be misbranded in that it purported to be and was represented as canned cherries (red sour pitted), a food for which a standard of quality has been prescribed by regulations promulgated pursuant to law, but its quality fell below the standard since more than 1 pit was present in each 20 ounces of the article, as determined by the method prescribed in the regulations, and its label failed to bear, in such manner and form as the regulation specify, a statement that it fell below the standard; and (34 cases and 293 cases) in that it purported to be and was represented as a food for which a standard of fill of container has been prescribed by the regulations, but it fell below the standard since there was not present in the container the maximum quantity of the cherry ingredient which could be sealed in the container and processed by heat to prevent spoilage, without crushing such

ingredient, and its label failed to bear, in such manner and form as such regulations specify, a statement that it fell below the standard.

On October 1 and November 8, 1943, the Perry Canning Co. having appeared as claimant for the lots at Twin Falls and Boise, and the libel proceedings against the lots at Twin Falls having been consolidated, orders were entered releasing the product under bond for sorting, repacking, and relabeling. On February 14, 1944, the Perry Canning Co., claimant, having admitted the allegations of the libel against the lot at Pocatello, judgment of condemnation was entered and the product was ordered released under bond to be relabeled in conformance with the law.

5711. Misbranding of canned cherries. U. S. v. 104 Cases of Canned Cherries. Product ordered released under bond to be sorted, repacked, and relabeled. (F. D. C. No. 10783. Sample No. 36158-F.)

On September 16, 1943, the United States attorney for the District of Idaho filed a libel against 104 cases of canned cherries at Twin Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about August 6, 1943, by the John Scowcroft and Sons Co. from Ogden, Utah; and charging that it was misbranded. It was labeled in part: (Cans) "Kitchen King Brand * * * Red Sour Pitted Cherries."

The article was alleged to be misbranded in that it purported to be and was represented as canned cherries (red sour pitted), a food for which a standard of quality has been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since more than 1 pit was present in each 20 ounces as determined by the method prescribed in the regulations, and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On October 1, 1943, the Perry Canning Company having appeared as claimant, the product was ordered released under bond to be sorted, repacked, and relabeled under Federal supervision.

5712. Misbranding of canned pears. U. S. v. 74 Cases of Canned Pears. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 11230. Sample No. 29699-F.)

This product was packed in light sirup and not heavy sirup, as declared on the label.

On December 6, 1943, the United States attorney for the Southern District of New York filed a libel against 74 cases, each containing 24 cans, of pears at Kingston, N. Y., alleging that the article had been shipped on or about November 4, 1943, from Campbell, Calif., by the Drew Canning Co.; and charging that it was misbranded. The article was labeled in part: (Cans) "Cheerio Brand Halves Bartlett Pears in Heavy Syrup * * * Distributed By F. B. Matthews & Co., Inc. Kingston, N. Y."

The article was alleged to be misbranded in that the statement on its label "in Heavy Syrup" was false and misleading as applied to canned pears packed in sirup designated in the regulations as "light sirup."

On June 9, 1944, the Drew Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

5713. Misbranding of canned pears. U. S. v. 282 Cases of Canned Pears. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 10734. Sample No. 11947-F.)

On September 13, 1943, the United States attorney for the Western District of Oklahoma filed a libel against 282 cases, each containing 24 cans, of pears at Oklahoma City, Okla., alleging that the article had been shipped in interstate commerce on or about August 19, 1943, by the A. M. Beebe Co. from San Francisco, Calif.; and charging that it was misbranded. It was labeled in part: (Cans) "Nickey Halves in Water Bartlett Pears * * * Distributed by Chevy Chase Co. San Jose, Calif."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality has been prescribed by regulations promulgated pursuant to law, and its quality fell below the standard since all units were not untrimmed or trimmed as to preserve normal shape, and more than 10 percent, in some cans, were crushed or broken, whereas the standard of quality for pears prescribed by the regulations provides that all

units shall be untrimmed or trimmed to preserve the normal shape, and that not more than 10 percent shall be crushed or broken; and the label failed to bear, in the manner and form as the regulations specify, a statement that the article fell below the standard.

On October 6, 1943, the Griffin Grocery Co., Oklahoma City, Okla., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond to be brought into compliance with the law by relabeling under the supervision of the Food and Drug Administration.

FRESH AND FROZEN FRUIT

Nos. 5714 to 5719 report actions involving apples that bore excessive spray residue containing arsenic or lead, or both.

5714. Adulteration of apples. U. S. v. 100 Bushels of Jonathan Apples. Decree of condemnation. Product ordered released under bond for reconditioning. (F. D. C. No. 10894. Sample No. 43555–F.)

On or about September 17, 1943, the United States attorney for the Western District of Missouri filed a libel against 100 bushels of Jonathan apples at Kansas City, Mo.; alleging that the article had been shipped in interstate commerce on or about August 20, 1943, by Don F. Rau from Springdale, Ark.; and charging that it was adulterated in that it contained an added poisonous or deleterious substance, lead, which might have rendered it injurious to health. The article was labeled in part: (Baskets) "Jonathan Apples No. 1 Packed by Lowell Fruit Co., Springdale, Ark."

On October 15, 1943, E. E. Fadler Company, agent for the Lowell Fruit Co., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be reconditioned by cleansing or peeling under the supervision of the Food and Drug Administration. The apples were satisfactorily reworked and the peelings were destroyed.

5715. Adulteration of apples. U. S. v. 93 1-Bushel Baskets of Apples. Default decree of condemnation and destruction. (F. D. C. No. 10804. Sample No. 9851–F.)

On or about September 2, 1943, the United States attorney for the Western District of Louisiana filed a libel against 93 1-bushel baskets of apples at Shreveport, La., alleging that the article had been shipped on or about August 26, 1943, by G. M. Huson of Shreveport, La., from Springdale, Ark.; and charging that it was adulterated in that it contained an excessive amount of arsenic and lead.

On October 20, 1943, no claimant having appeared, judgment of condenmation was entered and the product was ordered destroyed.

5716. Adulteration of apples. U. S. v. 75 Boxes and 11 Boxes of Apples. Consent decree of condemnation. Product ordered released under bond for salvage. (F. D. C. No. 11041. Sample Nos. 47133–F, 47136–F.)

On October 16, 1943, the United States attorney for the Northern District of Illinois filed a libel against 86 boxes of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 30, 1943, by Driver & Woodrow, from Wenatchee, Wash.; and charging that it was adulterated in that it contained an added poisonous or deleterious substance, lead, which might have rendered it injurious to health. The article was labeled in part: (Box) "Ex Fancy & Fancy * * * Jonathan * * * Ox Team * * * Grown by Wenatchee Wagner Orchards Wagnersburg Washington."

On October 19, 1943, the Riley-McFarland Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for salvage under the supervision of the Food and Drug Administration. On October 20, 1943, an amended decree was entered nunc pro tunc as of October 19, containing identical provisions with the exception that the bond was reduced from $2,800 to $700. The product was sold to a pie baker for use in pies, after having been satisfactorily reconditioned.

5717. Adulteration of apples. U. S. v. 15 Bushels of Jonathan Apples. Default decree of condemnation. Product ordered delivered to a government agency. (F. D. C. No. 11039. Sample No. 47108–F.)

On October 15, 1943, the United States attorney for the Northern District of Illinois filed a libel against 15 bushels of Jonathan apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September

26, 1943, by M. M. Spear & Son from St. Joseph, Mich.; and charging that it was adulterated in that it contained an added poisonous or deleterious substance, lead, which might render it injurious to health. The article was labeled in part: "Herman Maikowski R. 2 Watervliet Mich."

On October 27, 1943, no claim or answer having been entered and the owner having authorized the destruction of the product, judgment of condemnation was entered and the product was ordered delivered to a government agency.

5718. Adulteration of apples. U. S. v. 211 Boxes of Apples (and 2 other seizure actions involving apples). Decrees of condemnation. One lot ordered released under bond to be brought into compliance with the law; remaining lots ordered destroyed. (F. D. C. Nos. 11036, 11117, 11120. Sample Nos. 35724–F, 41407–F, 43229–F.)

On or about October 13, 22, and 25, 1943, the United States attorneys for the Northern District of Georgia, the Southern District of Texas, and the District of Nebraska filed libels against 211, 232, and 45 boxes of apples at Atlanta, Ga., Houston, Tex., and Grand Island, Nebr., alleging that the article had been shipped on or about September 21 and 29, 1943, by the American Fruit Growers, Inc., from Olds and Wenatchee, Wash.; and charging that it was adulterated in that it contained added poisonous or deleterious substances, lead in two of the lots and lead and arsenic in one lot, which might have rendered it injurious to health. The article was labeled in part: (Box) "Satisfactoree Brand C Grade Delicious," or "Fancy Skookum Apples-Skookum Packers Association, Wenatchee, Washington," or "Fancy Jonathans * * * Grown and Packed By East Side Orchard Wenatchee, Wash. * * * Distributed By Northwestern Fruit Exchange Wenatchee Washington."

On November 4, 1943, the American Fruit Growers, Inc., Northwestern Fruit Exchange and W. A. White Brokerage Co., claimants for the lot at Grand Island, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration. The apples were peeled and used in bakery products. On November 17 and December 31, 1943, no claimant having appeared for the remaining lots, judgments of condemnation were entered and the product was ordered destroyed.

5719. Adulteration of apples. U. S. v. 481 Bushel Baskets of McIntosh Apples. Consent decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 11033. Sample No. 8420–F.)

On October 9, 1943, the United States attorney for the Northern District of Iowa filed a libel against 481 bushel baskets of McIntosh apples at Dubuque, Iowa, alleging that the article, consigned by George W. Haxton & Son, had been shipped in interstate commerce on or about September 22, 1943, from Barker, N. Y.; and charging that it was adulterated in that it contained added poisonous or deleterious substances, arsenic and lead, which might have rendered it injurious to health.

On October 30, 1943, George W. Haxton & Son, Oakfield, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law under the supervision of the Food and Drug Administration.

5720. Adulteration and misbranding of frozen cherries. U. S. v. 172 Cartons and 92 Cartons of Frozen Cherries. Default decree of condemnation and destruction. (F. D. C. No. 10707. Sample Nos. 11950–F, 11951–F.)

On September 11, 1943, the United States attorney for the Northern District of California filed a libel against 264 cartons of frozen cherries at San Francisco, Calif., alleging that the article had been shipped on or about July 30, 1943, by the S. A. Moffett Company from Seattle, Wash.; and charging that it was adulterated and misbranded. It was labeled in part: "4 1 R. S. P. Cherries."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of maggots; and in that partially pitted cherries had been substituted in whole or in part for pitted cherries which the article purported or was represented to be.

It was alleged to be misbranded in that the statement "R. S. P. Cherries," meaning red sour pitted cherries, was false and misleading as applied to partially pitted cherries.

On October 18, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MISCELLANEOUS FRUIT PRODUCTS

5721. Misbranding of jellied cranberry sauce. U. S. v. 41 Cases of Jellied Cranberry Sauce. Decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 12363. Sample No. 35792–F.)

This product was short-weight.

On May 13, 1944, the United States attorney for the Eastern District of South Carolina filed a libel against 41 cases, each containing 24 jars, of jellied cranberry sauce at Columbia, S. C., alleging that the article had been shipped on or about February 3, 1944, by Cranberry Canners, Inc., from Hanson, Mass.; and charging that it was misbranded in that the statement "Net Wt. 1 Lb. 12 Oz." was false and misleading as applied to an article that was short-weight, and in that it was in package form and failed to bear a label which contained an accurate statement of the quantity of the contents. The article was labeled in part: (Jars) "Ready to Serve Ocean Spray Jellied Cranberry Sauce."

On June 14, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On June 17, 1944, an amended order was filed ordering that the product be delivered to a charitable institution.

VEGETABLES*

5722. Adulteration of canned green beans. U. S. v. 133 Cases and 257 Cases, and 111 Cases and 130 Cases of Green Beans. Decrees of condemnation. Product ordered released under bond for segregation of the fit from the unfit portion. (F. D. C. Nos. 10745, 10746. Sample Nos. 48508–F, 48509–F.)

On or about September 22, 1943, the United States attorney for the Southern District of Indiana filed libels against 631 cases, each containing 6 cans, of green beans at Indianapolis, Ind., alleging that the article, which had been consigned by the Springdale Canning Co., had been shipped in interstate commerce on or about June 21, 1943, from Springdale, Ark.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. Portions of the article were labeled in part: (Can) "Brookside Brand * * * Cut Green String Beans Packed For Kothe, Wells & Bauer Co. Indianapolis, Ind.," or "Sun Ripe Brand Cut Green Beans * * * Packed For M. O'Connor & Co., Indianapolis, Ind." The remainder was unlabeled.

On or about November 13, 1943, the Springdale Canning Co., claimant, having admitted the allegations of the libel, judgments of condemnation were entered and the product was ordered released under bond for sorting out the unfit portion and destroying it and reconditioning the balance under the supervision of the Food and Drug Administration.

5723. Adulteration of red kidney beans. U. S. v. 588 Bags of Red Kidney Beans. Default decree of condemnation. Product ordered released to the Welfare Department at Kansas City, Mo., for use as hog feed. (F. D. C. No. 10819. Sample No. 43433–F.)

This product was moldy.

On September 28, 1943, the United States attorney for the Western District of Missouri filed a libel against 588 bags of red kidney beans at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about July 16, 1943, by Vanderveer & Coleman, Inc., from Lyons, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Bag) "New York State Cockerel Brand * * * Red Kidney Beans."

On December 10, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered released to the Welfare Department at Kansas City, Mo., for use as hog feed.

5724. Misbranding of canned corn. U. S. v. 327 Cases of Canned Corn. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 10835. Sample No. 34271–F.)

This product was not narrow grain corn of fancy quality as represented on the label, but was a wide grain corn with poor flavor in which the majority of the kernels were in the late dough stage or older.

On September 25, 1943, the United States attorney for the Western District of Pennsylvania filed a libel against 327 cases, each containing 24 cans, of corn at Charleroi, Pa., alleging that the article had been shipped on or about October

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*See also Nos. 5767, 5768.

2, 1941, by the Crites Milling Co. from New Holland, Ohio; and charging that it was misbranded in that the statement "Narrow Grain Fancy Flavor" borne on the can was false and misleading as applied to corn that was not a narrow grain variety and was not of fancy quality. The article was labeled in part: (Cans) "Narrow Grain Cream Style Fancy Flavor Brand White Sweet Corn."

On November 17, 1943, the Crites Milling Company, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

5725. Adulteration of hominy. U. S. v. 99 Cases and 94 Cases of Hominy. Default decree of condemnation and destruction. (F. D. C. No. 11184. Sample Nos. 57641–F, 57642–F.)

On November 27, 1943, the United States attorney for the District of New Mexico filed a libel against 193 cases, each containing 24 packages, of hominy at Roswell, N. Mex., alleging that the article had been shipped on or about August 27 and October 1, 1943, in interstate commerce by the Jno. F. Achterberg Co. from El Paso, Tex.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of larvae, beetles, and larva casts. The article was labeled in part: (Packages) "Large Can-O-Hominy * * * Packed by The Can-O-Vegetables Company El Paso, Tex."

On December 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5726. Misbranding of onions. U. S. v. 800 Sacks of Onions. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 10967. Sample No. 57907–F.)

This product was short-weight.

On October 18, 1943, the United States attorney for the Western District of Oklahoma filed a libel against 800 sacks, each containing 50 pounds, of onions at Oklahoma City, Okla., alleging that the article had been shipped in interstate commerce on or about October 11, 1943, by the Rocky Ford Onion Growers Cooperative Association from Rocky Ford, Colo; and charging that it was misbranded in that the statement on the label, "Banner Brand Sweet Spanish Onions 50 Lbs. Net," was false and misleading as applied to an article short in weight, and in that it was food in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On October 20, 1943, the Colorado Potato Growers Exchange, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration. The onions were reweighed and brought up to the declared net weight.

5727. Adulteration of chick peas. U. S. v. 800 Bags of Chick Peas. Portion of product condemned and ordered delivered to claimant under bond for denaturing; remainder ordered released. (F. D. C. No. 10205. Sample No. 48100–F.)

This product was stored under insanitary conditions, after shipment. Many of the bags were rodent-gnawed and contained rodent excreta. Examination of samples taken from some of the bags showed that the product contained rodent excreta and rodent-gnawed peas.

On July 8, 1943, the United States attorney for the Eastern District of Kentucky filed a libel against 800 bags of chick peas at Ashland, Ky., alleging that the article had been shipped on or about February 24, 1943, in interstate commerce from St. Louis, Mo., and that it was in possession of the Golden Dream Food Corporation, Ashland, Ky.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it may have become contaminated with filth.

On October 18, 1943, Swanson Brothers, Inc., Chicago, Ill., having appeared as claimant and having admitted the allegations of the libel with respect to 27 bags of the product, judgment of condemnation was entered against this portion of the product and it was ordered to be delivered to the claimant under bond for denaturing, under the supervision of the Food and Drug Administration. The remainder of the product was ordered released to the claimant.

5728. Adulteration of yellow split peas. U. S. v. 10 Bags of Yellow Split Peas. Default decree of condemnation and destruction. (F. D. C. No. 10665. Sample No. 56045–F.)

On September 7, 1943, the United States attorney for the Southern District of New York filed a libel against 10 bags of yellow split peas at New York, N. Y., alleging that the article had been shipped on or about April 11, 1942, by the East Michigan Warehouse Co., Port Huron, Mich.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of larvae and insect excreta. The article was labeled in part: "Packed for Chamberlain Bean & Pea Co. Pt. Huron, Mich."

On November 1, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5729. Adulteration and misbranding of canned peas. U. S. v. 156 Cases and 793 Cases of Canned Peas. Decrees of condemnation. One portion was ordered released under bond to be relabeled and the remainder was ordered destroyed. (F. D. C. Nos. 10823, 10877. Sample Nos. 7000–F, 41125–F.)

On September 23 and October 22, 1943, the United States attorneys for the Eastern District of Missouri and the Northern District of Texas filed libels against 156 cases and 793 cases, each containing 24 cans, of peas at St. Louis, Mo., and Dallas, Tex.; alleging that the article had been shipped in interstate commerce on or about July 5 and September 1, 1943, by the Elkhart Lake Canning Co., from Elkhart Lake, Wis.; and charging that it was adulterated and misbranded. The lot at Dallas (79 cases) was labeled in part: (Cans) "Myrna Early June Peas," and the other lot was unlabeled.

The lot at St. Louis was alleged to be adulterated in that it consisted in whole or in part of a decomposed substance.

The lot at Dallas was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality has been prescribed by regulations as provided by law, but its quality fell below such standard because the article was a smooth-skin variety of peas and the alcohol-insoluble solids were more than 23.5 percent.

On November 29, 1943, the Griffin Grocery Co., Dallas, Tex., having appeared as claimant for the lot at Dallas, judgment of condemnation was entered and the product was ordered released under bond to be relabeled. On March 4, 1944, the Elkhart Lake Canning Co., having appeared as claimant for the lot at St. Louis, but having failed to file answer or other pleading, default was noted, judgment of condemnation was entered and the product was ordered destroyed.

5730. Misbranding of canned peas. U. S. v. 1,472 Cases of Canned Peas (and 4 other seizure actions involving canned peas). Decrees of condemnation. Portion of product ordered delivered to charitable institutions; remainder ordered released under bond for relabeling. (F. D. C. Nos. 10693, 10987, 11054, 11055, 11208. Sample Nos. 37346–F, 46126–F, 46129–F, 53419–F, 53420–F, 53448–F, 53454–F.)

This product was a smooth-skin variety of peas and was substandard in quality because the alcohol-insoluble solids of the peas were more than 23.5 percent, and in one portion the skins of more than 25 percent were ruptured to a width of $\frac{1}{16}$ inch or more.

Between September 10 and December 4, 1943, the United States attorneys for the Eastern District of South Carolina and the Northern District of West Virginia filed libels against 1,472 cases of canned peas at Charleston, S. C., 1,707 cases of canned peas at Clarksburg, W. Va., 114 cases of canned peas at Buckhannon, W. Va., 169 cases of canned peas at Elkins, W. Va., and 41 cases of canned peas at New Martinsville, W. Va., each case containing 24 cans, alleging that the article had been shipped within the period from on or about July 13 to August 16, 1943, by the Southern Packing Company, Inc., from Cavetown, Md., and Mountain Lake Park, Md.; and charging that it was misbranded. It was labeled in part: (Cans) "Value Brand * * * Early June Peas [or "Mountain Lake Brand June Peas"] Southern Packing Co., Inc., Distributors Baltimore, Md."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality has been prescribed by regulations as provided by law and its quality fell below such standard, and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below the standard.

On November 22 and 24 and December 6, 1943, the Southern Packing Co., Inc., having appeared as claimant for the lots seized at Charleston, S. C., and Clarksburg, Buckhannon, and Elkins, W. Va., and having in effect admitted the material allegations of the libels and consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be relabeled in accordance with the law, under Government supervision. On January 7, 1944, no claimant having appeared for the lot at New Martinsville, W. Va., judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

5731. Misbranding of canned peas. U. S. v. 147 Cases of Canned Peas. Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 11197. Sample No. 53522–F.)

On or about December 2, 1943, the United States attorney for the Western District of Virginia filed a libel against 147 cases, each containing 24 cans, of peas at Woodstock, Va., alleging that the article had been shipped on or about July 29, 1943, by the B. F. Shriver Co. from Westminster, Md.; and charging that it was misbranded. The article was labeled in part: (Cans) "New Windsor Brand Early June Peas."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality has been prescribed by regulations promulgated pursuant to the law, but its quality fell below the standard since it was a smooth-skin variety of peas and the alcohol-insoluble solids of the article in the container were more than 23.5 percent, whereas the regulations provide that alcohol-insoluble solids of the smooth-skin variety of peas in the containers are not more than 23.5 percent, and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below the standard.

On December 20, 1943, the Boyer Grocery Co., Woodstock, Va., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5732. Misbranding of canned peas. U. S. v. 470 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 11227. Sample No. 49105–F.)

On December 3, 1943, the United States attorney for the Southern District of Ohio filed a libel against 470 cases, each containing 24 cans, of peas at Cincinnati, Ohio, alleging that the article, which had been shipped on or about July 12, 1943, had been transported in interstate commerce by the E. G. Reece Canning Co., Waldron, Ind.; and charging that it was misbranded. The article was labeled in part: (Cans) "Preferred Brand Early June Alaska Peas."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality has been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard since it was smooth-skin variety of peas and the alcohol-insoluble solids were more that 23.5 percent, and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below the standard.

On December 20, 1943, the E. G. Reece Canning Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5733. Misbranding of canned peas. U. S. v. 657 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 10499. Sample No. 1594–F.)

On August 28, 1943, the United States attorney for the Northern District of Illinois filed a libel against 657 cases of canned peas at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about July 1, 1943, by the Lord-Mott Co., Inc., from Baltimore, Md.; and charging that it was misbranded. The article when shipped was unlabeled.

The article was alleged to be misbranded in that it was in package form and at the time of interstate shipment failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of contents. It was alleged to be misbranded further in that it purported to be a food for which a standard of quality has been prescribed by the regulations, but its quality fell below the standard because the

alcohol-insoluble solids were more than 23.5 percent, and its label did not bear, in such manner and form as the regulations specify, a statement that it fell below the standard.

On October 20, 1943, Lord-Mott Co., Inc., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled under the supervision of the Food and Drug Administration.

5734. Adulteration of peppers. U. S. v. 24 Bags of Whole Peppers. Default decree of condemnation and destruction. (F. D. C. No. 9222. Sample No. 10414–F.)

This product was stored under insanitary conditions. Many of the bags were rodent-gnawed, and rodent pellets were found on the bags and on the floor, and examination of the peppers showed that they contained rodent pellets.

On January 21, 1943, the United States attorney for the Northern District of California filed a libel against 24 160-pound bags of whole peppers at San Francisco, Calif., in the possession of R. C. Pauli & Sons, alleging that the article had been shipped in interstate commerce on or about October 25, 1942, from Brooklyn, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, rodent pellets, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On September 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5735. Misbranding of shoestring potatoes. U. S. v. 23 Cases of Shoestring Potatoes. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 10797. Sample No. 11586–F.)

On September 18, 1943, the United States attorney for the District of Nevada filed a libel against 23 cases, each containing 36 cartons, of shoestring potatoes at Reno, Nev., alleging that the article had been shipped on or about August 12, 1943, by the Spudette Co. from San Francisco, Calif.; and charging that it was misbranded in that its containers were so filled as to be misleading since the cellophane bag of shoestring potatoes occupied approximately 60 percent of the volume of the carton. The article was labeled in part: (Cartons) "Spudettes Shoestring Potatoes."

On October 4, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

5736. Adulteration of sauerkraut. U. S. v. 2,200 Jars and 5 Cases of Sauerkraut. Default decrees of condemnation and destruction. (F. D. C. Nos. 10897, 10968. Sample Nos. 39603–F, 39610–F.)

On October 6 and 19, 1943, the United States attorney for the Southern District of California filed libels against 2,200 jars and 5 cases of sauerkraut as Los Angeles, Calif., alleging that the article had been shipped in interstate commerce within the period from on or about April 11 to May 14, 1943, by the La Salle Food Products Co. from Detroit, Mich.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Jar) "'Ole Fashun' Crown Brand Products Sauer Kraut."

On November 16, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5737. Adulteration of sauerkraut. U. S. v. 6,000 Jars and 16 Cases of Sauer Kraut. Default decrees of condemnation and destruction. (F. D. C. Nos. 10897–A, 10968–A. Sample Nos. 39602–F, 39609–F.)

On October 6 and 19, 1943, the United States attorney for the Southern District of California filed libels against 6,000 jars and 16 cases of sauerkraut at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce within the period from on or about April 7 to 29, 1943, by the Chicago Pickle Co., Inc., from Chicago, Ill.; and charging that the article was adulterated in that it consisted in whole or in part of a decomposed substance. It was labeled in part: (Jar) "Chipico Home Made Style Sauer Kraut."

On November 15, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS

5738. Adulteration of canned tomatoes. U. S. v. 89 Cases of Canned Tomatoes. Decree of condemnation and destruction. (F. D. C. No. 10811. Sample No. 52835–F.)

On September 22, 1943, the United States attorney for the Eastern District of Virginia filed a libel against 89 cases, each containing 6 cans, of tomatoes at Norfolk, Va., alleging that the article had been shipped on or about July 21, 1943, by the W. T. Onley Canning Co. from Snow Hill, Md.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Can) "Onley Brand * * * Tomatoes."

On or about October 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5739. Adulteration of canned tomatoes. U. S. v. 300 Cases of Canned Tomatoes. Decree of condemnation. Product ordered released under bond for segregation and destruction of the unfit portion. (F. D. C. No. 10814. Sample No. 47227–F.)

On September 22, 1943, the United States attorney for the Western District of Tennessee filed a libel against 300 cases, each containing 24 cans, of tomatoes at McKenzie, Tenn., alleging that the article had been shipped on or about August 16, 1943, by the Lovelace Farmer Co. from Hickman, Ky.; and charging that the article was adulterated in that it consisted in whole or in part of a decomposed substance. It was labeled in part: (Cans) "Riverside Brand Hand Packed Tomatoes Packed by Union City Canning Co., Union City, Tenn."

On November 2, 1943, the Riverside Canning Co., Hickman, Ky., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation of the edible portion from the inedible portion and destruction of the latter under the supervision of an officer designated by the Federal Security Agency Administrator. On November 20, 1943, an amended decree was filed providing for the segregation of the product at McKenzie, Tenn.

5740. Misbranding of canned tomatoes. U. S. v. 43 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. D. C. No. 10740. Sample No. 36154–F.)

This product fell below the standard of quality for canned tomatoes because the drained weight was less than 50 percent of the weight of the water required to fill the container.

On September 15, 1943, the United States attorney for the District of Idaho filed a libel against 43 cases of canned tomatoes at Pocatello, Idaho, alleging that the article had been shipped in interstate commerce on or about May 19, 1943, by the California Packing Corporation from Ogden, Utah; and charging that it was misbranded. It was labeled in part: (Cans) "Mission Tomatoes."

The article was alleged to be misbranded in that it purported to be and was represented as a food for which a standard of quality has been prescribed by regulations promulgated pursuant to law, but its quality fell below such standard, and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below the standard.

On October 18, 1943, the California Packing Corporation, claimant, having consented to the entry of the decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of an officer designated by the Federal Security Administrator.

5741. Adulteration of tomato juice. U. S. v. 216 Cases and 97 Cases of Tomato Juice. Decrees of condemnation and destruction. (F. D. C. Nos. 10816, 11098. Sample Nos. 3771–F, 38939–F.)

On or about October 2 and November 26, 1943, the United States attorneys for the Northern District of Illinois and the District of Kansas filed libels against 313 cases, each containing 24 cans, of tomato juice, at Chicago, Ill., and Arma, Kans., alleging that the article had been shipped in interstate commerce on or about July 10, 12, and 13, 1943, by the Ames Canning Co. from Ames, Iowa; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Can) "Garden Quality * * * Collegian Brand Tomato Juice."

The Arma Elevator Co., Arma, Kans., appeared as claimant for the lot at Arma and admitted that the product involved in that action was adulterated.

No appearance was entered in the action instituted at Chicago. On November 18 and 19, 1943, judgments of condemnation were entered in both actions and the product was ordered destroyed.

5742. Adulteration of tomato puree. U. S. v. 1,195 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. D. C. No. 12352. Sample Nos. 33892–F, 75801–F.)

On May 10, 1944, the United States attorney for the Western District of New York filed a libel against 1,195 cases of tomato puree at Barre Center, N. Y., alleging that the article had been shipped on or about October 11, 1943, by the Mays Packing Co. from Mays, Ind.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material. Each case contained 6 unlabeled No. 10 cans.

On June 19, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5743. Adulteration of tomato soup. U. S. v. 398 Cases of Tomato Soup. Default decree of condemnation and destruction. (F. D. C. No. 12419. Sample No. 67337–F.)

On May 25, 1944, the United States attorney for the Northern District of Ohio filed a libel against 398 cases of tomato soup at Cleveland, Ohio, alleging that the article had been shipped in interstate commerce on or about October 23, 1943, by the Columbia Conserve Co., Indianapolis, Ind.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed tomato material. The article was labeled in part: (Cans) "Columbia Concentrated Tomato Soup."

On June 26, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MEAT AND MEAT PRODUCTS*

5744. Adulteration of dressed poultry. U. S. v. 1 Barrel and 646 Boxes of Dressed Poultry. Decree of condemnation. Product ordered released under bond to be reconditioned by separating the fit from the unfit portion. (F. D. C. No. 11078. Sample No. 51549–F.)

On November 8, 1943, the United States attorney for the District of Massachusetts filed a libel against 1 barrel, containing about 172 pounds, and 646 boxes, each containing approximately 41 pounds, of dressed poultry at Boston, Mass., alleging that the article had been shipped on or about October 2, 1943, by the Tracy Produce Co., Inc., from Arlington, S. Dak.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. One portion, 172 pounds, of the article was labeled in part: "37 No. 1 Cox"; the remainder was labeled in part: "Traco Brand [or "Primo Brand," or "Choice"] Fowl [or "Springs," "Broilers," "Fryers," or "Roasters"]."

On November 29, 1943, the Tracy Produce Co., Inc., Tracy, Minn., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reconditioned by separating the fit from the unfit portion under the supervision of the Food and Drug Administration. On February 10, 1944, an amended decree was entered providing for salvaging the product at Leominster, Mass., by eviscerating the fowl and discarding all birds bearing evidence of decomposition or other unfit condition, such rejected material to be denatured and disposed of for tankage or other nonhuman-food purposes.

5745. Adulteration of frozen poultry. U. S. v. 40 Barrels and 87 Boxes of Poultry. Decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10681. Sample No. 43340–F.)

On or about September 10, 1943, the United States attorney for the Western District of Missouri filed a libel against 40 barrels, containing approximately 12,155 pounds and 87 boxes, containing approximately 6,766 pounds, of frozen poultry at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about July 23, 1943, by the Edward Aaron Co. from Shenandoah, Iowa; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance because of the presence of decomposed birds.

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*See also No. 5766.

On October 6, 1943, the Edward Aaron Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law under the supervision of the Food and Drug Administration. The poultry was eviscerated and cleaned, and the unfit portion, after being treated with a mixture of creosote and kerosene, was hauled to a rendering works.

5746. Adulteration of frozen poultry. U. S. v. 109 Boxes of Frozen Poultry. Consent decree of condemnation. Product ordered released under bond to be reconditioned. (F. D. C. No. 10705. Sample No. 48376–F.)

On September 8, 1943, the United States attorney for the Southern District of Ohio filed a libel against 109 boxes of frozen poultry at Cincinnati, Ohio, which had been consigned on or about August 7, 1943, alleging that the article had been shipped in interstate commerce by the Wichita Ice and Cold Storage Company from Wichita, Kans.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, poultry contaminated with fecal material. The article was labeled in part: "Fowl Kepner Poultry & Egg Co., Wichita, Kan."

On October 15, 1944, the Kroger Grocery and Baking Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond to be reconditioned by proper cleaning and trimming under the supervision of the Food and Drug Administration.

5747. Misbranding of smoked turkey paté. U. S. v. 35 Jars of Smoked Turkey Paté. Decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 10876. Sample No. 23460–F.)

This product was short-weight.

On October 5, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 35 jars of smoked turkey paté at Philadelphia, Pa., alleging that the article had been shipped by Pinesbridge Farm, Inc., on or about August 23, 1943, from Ossining, N. Y.; and charging that it was misbranded in that the statement "Net Wt. 4 Ozs. Avd." was false and misleading as applied to an article that was short-weight, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents. The article was labeled in part: "Pinesbridge Farm Original Smoked Turkey PATÉ Contains: Smoked Turkey Prepared with Salt & Spice. Smoked Turkey Broth. Net Wt. 4 Ozs. Avd."

On October 27, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

NUTS AND NUT PRODUCTS*

5748. Adulteration of shelled almonds. U. S. v. 20 Boxes of Almonds. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of unfit portion. (F. D. C. No. 11242. Sample No. 65707–F.)

On December 8, 1943, the United States attorney for the Southern District of New York filed a libel against 20 boxes of almonds at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 19, 1943, by W. A. Higgins & Co., New York, N. Y., to Cincinnati, Ohio, and reshipped on or about October 29, 1943, by the consignee to the consignor; and charging that it was adulterated. The article was labeled in part: "Lamb Brand Produce of Spain * * * Jordan Almonds."

The article was alleged to be adulterated in that it was insect-infested as evidenced by worms, insect excreta, and webbing, and some of the almonds were rancid.

On December 24, 1943, William A. Higgins & Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion under the supervision of the Food and Drug Administration.

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*See also Nos. 5641, 5642, 5769.

5749. Adulteration of California shelled walnuts. U. S. v. 6 Cases of California Shelled Walnuts. Default decree of condemnation and destruction. (F. D. C. No. 12357. Sample No. 58089–F.)

This product had been stored under insanitary conditions after shipment in interstate commerce. The cases had been torn and gnawed by rodents, and rodent excreta was found on the cases. Examination of samples showed that the product contained rodent excreta and rodent hairs.

On May 13, 1944, the United States attorney for the District of Nebraska filed a libel against 6 cases of California shelled walnuts at Scottsbluff, Nebr., alleging that the article, which was in the possession of the Nash-Finch Co., had been shipped on or about November 29, 1943, from Los Angeles, Calif.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On June 20, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5750. Adulteration of shelled Spanish peanuts. U. S. v. 102 Bags of Shelled Spanish Peanuts. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of the unfit portion. (F. D. C. No. 12328. Sample No. 76354–F.)

This product had been stored under insanitary conditions after shipment in interstate commerce. Some of the bags had been torn by rodents and contained urine stains. Examination of samples showed that the product was contaminated with rodent excreta.

On or about May 6, 1944, the United States attorney for the District of Connecticut filed a libel against 102 bags, each containing about 135 pounds, of shelled Spanish peanuts at New Haven, Conn.; alleging that the article, which was in the possession of the Nut Food Co., Inc., had been shipped on or about October 9, 1943, from Albany, Ga.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

On June 7, 1944, the Nut Food Co., Inc., New Haven, Conn., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion under the supervision of the Food and Drug Administration.

5751. Adulteration of sugar-coated peanuts. U. S. v. 46 Boxes of Sugar-coated Peanuts. Default decree of condemnation and destruction. (F. D. C. No. 10785. Sample No. 45037–F.)

On September 17, 1943, the United States attorney for the District of Connecticut filed a libel against 46 boxes, each containing 24 cellophane bags, of sugar-coated peanuts at Hartford, Conn., alleging that the article had been shipped in interstate commerce on or about August 27, 1943, by Havmor Food Products from Brooklyn, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of worms, insect excreta, and worm-cut peanuts. The article was labeled in part: (Label stapled on top of bag) "Havmor Tasty Toasted Nuts Consists of Sugar and Peanuts."

On October 15, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5752. Adulteration and misbranding of peanut butter. U. S. v. 99 Cases of Peanut Butter. Default decree of condemnation. Product ordered delivered to a charitable institution for use as animal food. (F. D. C. No. 10809. Sample No. 41402–F.)

This product contained insect fragments, rodent excreta, and dirt, and also was short-weight.

On September 21, 1943, the United States attorney for the Southern District of Texas filed a libel against 99 cases of peanut butter at Houston, Tex., alleging that the article had been shipped on or about August 3 and 23, 1943, by the Robertson Peanut Co. from Clayton, Ala.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, and that it was misbranded in that the statement "Net weight 1½ pound" was false and misleading as applied to an article that was short-weight. The article was labeled in part: "Delicious Brand Peanut Butter."

On December 2, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution for use as animal feed.

5753. Adulteration of frozen coconut. U. S. v. 586 Cans and 224 Cans of Frozen Coconut (and 3 other seizure actions against frozen coconut). Decrees of condemnation. Portion of product ordered destroyed and remainder released under bond for reprocessing. (F. D. C. Nos. 10261, 10306, 10433, 10436. Sample Nos. 20658–F, 20659–F, 35157–F, 35158–F, 35162–F, 38822–F.)

Examination showed that this product was sour.

Between July 15 and August 20, 1943, the United States attorneys for the Northern and Middle Districts of Georgia, the Northern District of Illinois, and the District of Massachusetts filed libels against the following quantities of frozen coconut: 810 cans at Atlanta, Ga., 1,022 cans at Columbus, Ga., 550 cans at Chicago, Ill., and 600 cans and 98 cartons at Boston, Mass., alleging that the article had been shipped within the period from on or about April 24 to June 26, 1943, from Lakeland, Fla., by the Trade Wind Foods, Inc.; and charging that it was adulterated in that it consisted in whole or in part of a decomposed substance. The article was labeled in part: (Cans) "Trade Wind Brand Unsweetened Shredded Natural Quick Frozen Cocoanut [or "Trade Wind Unsweetened * * * Cocoanut"]," "Trade Wind Brand * * * Grated * * * Frozen Cocoanut Buffed," or (cartons) "Monogram Brand Unsweetened Buffed Quick Frozen Cocoanut The Hills Bros. Co., New York, N. Y."

On October 11, 1943, no claimant having appeared for the lot at Chicago, judgment of condemnation was entered and it was ordered destroyed. On December 18 and 29, 1943, and January 20, 1944, Trade Wind Foods, Inc., claimant, having admitted the allegations of the libels against the remainder of the product, judgments of condemnation were entered and the product was ordered released under bond for reprocessing by drying and heating under the supervision of the Food and Drug Administration.

SPICES AND SEASONING

5754. Adulteration of ginger. U. S. v. 68 Bags of Ginger. Consent decree of condemnation. Product ordered released under bond, the unfit portion to be segregated and cleaned or distilled. (F. D. C. No. 10924. Sample No. 56085–F.)

Examination showed that this product was insect-infested, as evidenced by worm holes and excreta.

On October 11, 1943, the United States attorney for the Southern District of New York filed a libel against 68 bags, each containing 112 pounds, of ginger at New York, N. Y., alleging that the article had been shipped on or about April 22, 1942, by Madhavji Vishham & Co., from Karachi, India; and charging that it was adulterated in that it consisted in whole or in part of filthy substances. The article was labeled in part: (Bags, stenciled) "Produce of British India."

On November 18, 1943, Philip Kachurin, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and cleaned or distilled under the supervision of the Food and Drug Administration.

5755. Adulteration of ginger root. U. S. v. 10 Barrels of Ginger Root. Consent decree of condemnation. Product ordered released under bond to be brought into compliance with the law. (F. D. C. No. 10937. Sample No. 56086–F.)

On or about October 15, 1943, the United States attorney for the Southern District of New York filed a libel against 10 barrels of ginger root at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about July 16, 1943, by D. C. Andrews & Co., New Orleans, La.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of beetles, cocoons, webbing, and insect excreta.

On November 13, 1943, the Otto Gerdau Co., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reconditioned so as to comply with the law, under the supervision of the Food and Drug Administration. The product was brought into compliance with the law by segregating and destroying the unfit portion.

5756. Adulteration of ground mustard. U. S. v. 1 Barrel of Ground Mustard. Default decree of condemnation and destruction. (F. D. C. No. 10729. Sample No. 55404–F.)

On September 23, 1943, the United States attorney for the Western District of Washington filed a libel against 1 barrel containing approximately 100 pounds

of ground mustard at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about January 5, 1943, from San Francisco, Calif., by D. Ghirardelli & Co.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence therein of beetles. The article was labeled in part: "Superfine Mustard."

On January 27, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5757. Adulteration of paprika. U. S. v. 9 Bags, 3 Bags, and 82 Bags of Paprika. Default decrees of condemnation and destruction. (F. D. C. Nos. 11012, 11013. Sample Nos. 56089–F to 56091–F, incl.)

On or about November 1, 1943, the United States attorney for the Southern District of New York filed libels against 94 bags of paprika at New York, N. Y., alleging that the article had entered the United States on or about April 2 and July 1, 1942, having been shipped from Portugal by Sociedade Fabril de Pimentao Lda, Chanca, Portugal; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance because of the presence of insects, larvae, insect fragments, insect excreta, and webbing.

On November 22 and December 7, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5758. Misbranding of seasoning powder. U. S. v. 12 Cases of Seasoning Powder. Default decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 10754. Sample No. 45023–F.)

Analysis showed that this product consisted essentially of salt and cornstarch, with about 20 percent of sodium glutamate, a vegetable protein derivative.

On or about September 16, 1943, the United States attorney for the District of Connecticut filed a libel against 12 cases, each containing 2 jars, of seasoning powder at Bristol, Conn., alleging that the article was shipped in interstate commerce on or about June 16, 1943, by the Pro-Tee Laboratories, Inc., Brooklyn, N. Y.; and charging that it was misbranded in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient. The article was labeled in part: (Jars) "Wei-Jin Seasoning Powder."

On November 12, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

MISCELLANEOUS FOODS

5759. Action to enjoin and restrain interstate shipments of Mrs. Price's Compound, Mrs. Price's Specially Prepared Package of Boric Acid, and Price's No Ice. U. S. v. Metta T. Price (Price Compound Co.). Permanent injunction granted. (Inj. No. 57.)

On June 21, 1943, the United States attorney for the District of Minnesota filed a complaint for the purpose of enjoining Meta T. Price, doing business as the Price Compound Co., Minneapolis, Minn., from the sale and distribution of the above-named products offered for use in home canning and food preservation. The principal allegations of the complaint were substantially sustained by the findings of fact and conclusions of law set forth hereinafter.

On June 28, 1943, based on the written stipulation of the defendant, the court entered the following findings of fact and conclusions of law:

Findings of Fact

I

"Plaintiff brings this action for the purpose of enjoining the defendant from violating the provisions of Section 301 (a) of the Federal Food, Drug and Cosmetic Act (Act June 25, 1938, c. 675, 50 Stat. 1040; Title 21 U. S. C., Section 301 et seq.) hereinafter called 'The Act.'

II

"The defendant, Metta T. Price, resides in the City of Minneapolis, County of Hennepin, State of Minnesota, and within the jurisdiction of this Court, and at all times since about 1937 has been the sole owner and operator of a place of business in said City of Minneapolis, aforesaid, where she is engaged and has been

engaged under the name and style of Price Compound Company in the sale and distribution of chemical preservatives offered for use in home canning and food preservation.

III

"Since about the year 1937, defendant has been engaged in the sale and distribution in the channels of interstate commerce of products hereinafter mentioned, upon the labels of which appear, among other things, these inscriptions: 'Mrs. Price's Specially Prepared Package of Boric Acid', 'Mrs. Price's Compound', and 'Price's No Ice'. Said products have been shipped by defendant from her place of business in the said City of Minneapolis, aforesaid, to, into, and through states other than the State of Minnesota.

IV

"The said product, labeled in part, 'Mrs. Price's Specially Prepared Package of Boric Acid', is a white powder consisting of 100 percent boric acid. Said products, labeled in part, 'Mrs. Price's Compound' and 'Price's No Ice' are white powders each consisting of approximately 95 percent boric acid and approximately 5 percent sodium chloride (salt).

V

"The said products, labeled in part, 'Mrs. Price's Specially Prepared Package of Boric Acid' and 'Mrs. Price's Compound' are offered for sale and recommended for use in the home canning of vegetables, fruits, pickles and preserves. Said product, labeled in part, 'Price's No Ice', is offered for sale and recommended for use in the preservation of freshly killed fish and game and to prevent milk and cream from souring.

VI

"Accompanying said products labeled in part, 'Mrs. Price's Compound' and 'Mrs. Price's Specially Prepared Package of Boric Acid' are booklets entitled, 'Mrs. Price's Complete Directions for Canning Vegetables and Fruits, Pickling, etc.', published in several editions. Such booklets contain recommendations and instructions as to the use of said products as preservatives in the home canning of vegetables, fruits, pickles and preserves. Also included upon the labels of the packages containing said products, and the product labeled in part, 'Price's No Ice,' is printed matter prescribing and recommending the manner and means of using said products as home preservatives and in the preservation of freshly killed game and fish and to prevent milk and cream from souring.

VII

"Commencing on or about September 23, 1942, and again about the middle of May, 1943, said product, labeled in part, 'Mrs. Price's Compound', and said product, labeled in part, 'Mrs. Price's Specially Prepared Package of Boric Acid', have been and now are the subject of numerous libel or seizure actions commenced by the United States of America in various federal judicial districts throughout the United States seeking the condemnation of the quantities seized as misbranded under the Act. In at least two instances, decrees in favor of the United States of America, as libelant, have been entered condemning, forfeiting and ordering the destruction of such quantities of the said products as were involved in those proceedings. About ten libel proceedings against various shipments of said products are presently pending.

"The printed matter distributed with the products labeled in part, 'Mrs. Price's Specially Prepared Package of Boric Acid' and 'Mrs. Price's Compound', and the printed matter appearing upon the packages containing said products represent and suggest that the said 'Mrs. Price's Specially Prepared Package of Boric Acid' and 'Mrs. Price's Compound', when used as directed, in the canning of vegetables, fruits, pickles and preserves, is safe and appropriate for such uses and will effect proper sterilization, conservation and preservation of home canned foods. * * * The printed matter appearing upon the packages containing the product labeled in part, 'Price's No Ice', represent and suggest that the use therof will prevent milk and cream from souring and will keep and preserve freshly killed game and fish. * * *

IX

"The use of the products labeled in part, 'Mrs. Price's Compound' and 'Mrs. Price's Specially Prepared Package of Boric Acid', by virtue of being composed largely of boric acid is potentially dangerous to the health of the consumer. The directions recommended in the printed matter * * * do not adequately insure the proper sterilization of the utensils used in the canning procedure, nor do they adequately insure the destruction of heat resistant spore forming bacteria capable of producing spoilage and toxins dangerous to health.

X

"The use of the product labeled in part, 'Price's No Ice' in accordance with the directions set forth in the printed matter * * * will not be effective to prevent milk and cream from souring and in preserving freshly killed game and fish. Such directions do not assure adequate removal of the boric acid used in the preservation process, and thus do not protect a consumer against the hazards to health implicit in the consumption of boric acid.

XI

"The use of boric acid as a preservative either for canned foods or fresh foods is specifically recognized as dangerous to health in that the consumption of as little as one-half gram of boric acid per day over long periods of time is deleterious to health in that serious chronic poisoning will result. Use of the products labeled in part, 'Mrs. Price's Compound' and 'Mrs. Price's Specially Prepared Package of Boric Acid', in accordance with the directions contained in the printed matter * * * can result in the consumption by an average family of five, receiving five servings to a quart of home canned food, of as much as 1.24 grams of boric acid daily for each quart used.

XII

"Specifically, the Court finds that the use of the products labeled in part, 'Mrs. Price's Compound' and 'Mrs. Price's Specially Prepared Package of Boric Acid', in accordance with the directions set forth in the printed matter * * * does not protect against the bacteria known as clostridium botulinum, which is the organism that produces the toxin which has caused fatalities following a consumption of home canned food."

CONCLUSIONS OF LAW

I

"The Court is authorized by Section 302 (a) of the Federal Food, Drug and Cosmetic Act to restrain the introduction or delivery for introduction, or the causing of introduction or delivery for introduction into interstate commerce of any food or drug which is misbranded.

II

"Cause has been shown justifying the issuance of a Permanent Injunction.

III

"The said product labeled in part, 'Mrs. Price's Specially Prepared Package of Boric Acid' is both a food within the meaning of Section 201 (f) (3) and a drug within the meaning of Section 201 (g) (1) of the Act. The said products labeled in part, 'Mrs. Price's Compound' and 'Price's No Ice', are foods within the meaning of Section 201 (f) (3) of the Act.

IV

"The written, printed and graphic matter accompanying and appearing upon the packages containing the products labeled in part, 'Mrs. Price's Compound', 'Mrs. Price's Specially Prepared Package of Boric Acid' and 'Price's No Ice', constitute labeling within the meaning of Section 201 (m) of the Act.

V

"The article of food, labeled in part, 'Mrs. Price's Compound', is misbranded within the meaning of Section 403 (a) of the Act in that the statements in Exhibits A, B, C, and D are misleading since such Exhibits, when read in their respective entirety, represent and suggest, and engender the impression in the minds of readers, that said 'Mrs. Price's Compound', when used as directed in its labeling in the canning of vegetables, fruits, pickles and preserves, is safe and appropriate for such uses, and will effect proper sterilization, conservation and preservation of home canned foods; whereas, use of said 'Mrs. Price's Compound', as directed, is potentially dangerous to the health of the consumer, and will not insure proper sterilization, conservation and preservation of home canned foods.

VI

"The article of food and drug, labeled in part, 'Mrs. Price's Specially Prepared Package of Boric Acid' is misbranded within the meaning of Sections 403 (a) and 502 (a) of the Act in that the statements in Exhibits A and B are misleading since such Exhibits, when read in their respective entirety, represent and suggest, and engender the impression in the minds of readers, that said 'Mrs. Price's Specially Prepared Package of Boric Acid', when used as directed in Exhibits A and B in the canning of vegetables, fruits, pickles and preserves is safe and appropriate for such uses, and will effect proper sterilization, conservation and preservation of home canned foods, whereas, use of said 'Mrs. Price's Specially Prepared Package of Boric Acid', as directed, is potentially dangerous to the health of the consumer, and will not insure proper sterilization, conservation and preservation of home canned foods.

VII

"The article of food, labeled in part, 'Price's No Ice', is misbranded within the meaning of Section 403 (a) of the Act in that the following statements appearing in Exhibits E and F, to wit, '* * * can be used in milk or cream to prevent souring', and 'It keeps the fish or game sweet and wholesome for days after being killed, even in the warmest weather, when directions are followed, and is removed by rinsing in cold water', * * * and the statement, 'It keeps the fish or game sweet and wholesome for several days after being killed, even in the warmest weather, when directions are followed, and is removed by rinsing in cold water,' * * * is false and misleading since the article when so used will not have such effects and will not be removed by rinsing in cold water.

VIII

"During all the times since the enactment of the Federal Food, Drug and Cosmetic Act shipments in interstate commerce of the products labeled in part, 'Mrs. Price's Compound', 'Mrs. Price's Specially Prepared Package of Boric Acid' and 'Price's No Ice' have been and now are in violation of Section 301 (a) of the Act."

On June 28, 1943, judgment was entered enjoining the defendant, her employees, agents, distributors, attorneys, assigns, and any and all persons acting in concert with her, from introducing or delivering for introduction, or causing the introduction or delivery for introduction into interstate commerce of Mrs. Price's Compound, Price's No Ice, and Mrs. Price's Specially Prepared Package of Boric Acid, or any similar articles containing boric acid for any purposes whatsoever, in violation of the Federal Food, Drug, and Cosmetic Act.

The complaint alleged further that the product, "Mrs. Price's Specially Prepared Package of Boric Acid," was a drug, as reported in notices of judgment on drugs and devices.

5760. Misbranding of Mrs. Price's Specially Prepared Package of Boric Acid. U. S. v. 53 Packages of Mrs. Price's Specially Prepared Package of Boric Acid (and 5 other seizure actions against the same product). Default decrees of condemnation. Portion of the product ordered delivered to a local public institution and remainder ordered destroyed. (F. D. C. Nos. 9984, 9990 to 9993, incl., 10043. Sample Nos. 22645–F, 22647–F, 22773–F, 22775–F, 23281–F, 23282–F, 23284–F, 32514–F.)

Examination showed that this product consisted of boric acid meeting the requirements of the United States Pharmacopoeia.

Between May 20 and June 7, 1943, the United States attorneys for the Eastern and Middle Districts of Pennsylvania and the Northern District of Ohio filed libels

against 53 packages at Wilkes-Barre, Pa., 68 and 118 packages at Philadelphia, Pa., 238 packages at Lancaster, Pa., 128 and 120 packages at Harrisburg, Pa., 115 packages at Northumberland, Pa., and 5 packages at Cleveland, Ohio, each package containing 12 envelopes of boric acid and 3 pamphlets entitled "Mrs. Price's Complete Directions for Canning Vegetables and Fruits Pickling, etc. * * *," alleging that the article had been shipped within the period from on or about March 15 to April 21, 1943, from Minneapolis, Minn., by the Price Compound Company; and charging that it was misbranded.

It was alleged to be misbranded (1) in that the statements in its labeling which represented, suggested, and engendered the impression in the mind of readers that boric acid, when used as therein directed in the canning of vegetables, fruits, and pickles, might safely be used for such purposes, would effect proper sterilization and would destroy bacterial spores capable of causing spoilage, and thereby prevent a substantial amount of waste in home-canned products, were misleading since such use would be potentially dangerous to the health of the consumer, would not insure proper sterilization, and would not destroy resistant bacterial spores capable of causing spoilage, and thus would not insure the prevention of a substantial amount of waste in home-canned products; (2) in that the statements in its labeling whereby the home canner was admonished to sterilize jars, and particularly rubber rings, by boiling for 15 or 20 minutes, were misleading since the directions for sterilizing were inadequate for the reason that sterilization of jars and rubber rings cannot always be accomplished by boiling for 15 or 20 minutes due to the heat resistance of spore-forming bacteria; (3) in that the statement in its labeling "Wash thoroughly, as the most dangerous and the most difficult bacteria to destroy are in the soil," was misleading since it suggested and represented that the thorough washing of vegetables would eliminate the most dangerous and difficult bacteria to destroy, the common habitat of which is in soil, whereas thorough washing of vegetables would not insure such effects; and (4) in that the statements in its labeling, "Mrs. Price's Specially Prepared Package of Boric Acid Manufactured for, Prepared and Distributed by The Price Compound Company * * * Minneapolis, Minn. * * * It is not claimed that the contents of this package contains anything of food value," were misleading since they failed to reveal the consequences which might result from the use of the article under the conditions of use prescribed in the labeling, namely, that the processing recommended would not insure proper sterilization and might thereby result in danger to health, and they further failed to reveal that the amounts of boric acid which might be ingested when the boric acid was used as prescribed was such as might render the product deleterious to health.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices.

Between June 26 and August 9, 1943, no claimant having appeared, judgments of condemnation were entered and it was ordered that the lots at Philadelphia and Lancaster be delivered for the use of some local public institution and that the other lots be destroyed.

5761. Misbranding of Mrs. Price's Compound. U. S. v. 119 Paekages of Mrs. Price's Compound (and 4 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. D. C. Nos. 9989, 9999, 10000, 10044, 10079. Sample Nos. 24595–F, 30997–F, 32515–F, 36207–F, 37964–F.)

Analysis showed that this product contained about 95 or 96 percent of boric acid and about 4 or 5 percent of sodium chloride.

Between May 21 and June 11, 1943, the United States attorneys for the Western District of Michigan, the District of Maryland, the Western District of Washington, the Northern District of Ohio, and the District of Colorado filed libels against 119 packages at Grand Rapids, Mich., 117 packages at Baltimore, Md., 114 packages at Seattle, Wash., 41 packages at Cleveland, Ohio, and 104 packages at Denver, Colo., each package containing 12 envelopes of Mrs. Price's Compound (each envelope containing a smaller envelope, setting forth certain directions for canning), and 3 pamphlets entitled "Mrs. Price's Complete Directions for Canning Vegetables and Fruits Pickling, etc.," alleging that the article, which had been consigned by the Price Compound Company, had been shipped on or about March 31 and April 2 and 19, 1943, from Minneapolis, Minn.; and charging that it was misbranded.

All lots of the article were alleged to be misbranded in that the statement in their labeling which represented, suggested, and engendered the impression in the minds of readers that boric acid, when used as therein directed in the canning

of vegetables, fruits, and pickles, might safely be used for such purposes, would effect proper sterilization and destroy bacterial spores capable of causing spoilage, and thereby prevent a substantial amount of waste in home-canned products, were misleading since such use would be potentially dangerous to the health of the consumer, would not insure proper sterilization, and would not destroy resistant bacterial spores capable of causing spoilage, and thus would not insure prevention of a substantial amount of waste in home-canned products. They were alleged to be misbranded further in that the statements in their labeling, (Grand Rapids lot) "Mrs. Price's Compound * * * Notice to Purchasers It is not claimed for this compound that it contains anything of food value, but it is an antiseptic preparation, and among its many uses, may be employed to prevent canned fruits and vegetables from souring and spoiling. This package contains specially prepared and tested Sodium, Chloride, Boric Acid," and (other lots) "Mrs. Price's Compound * * * (* * * Boric Acid and Salt) It is not claimed that the contents of this package contains anything of food value," were misleading since such statements failed to reveal the consequences which might result from the use of the article under the conditions of use prescribed in the pamphlet accompanying the article, namely, that the processing recommended would not insure proper sterilization and might thereby result in danger to health, and they further failed to reveal that the amounts of boric acid which might be ingested when the boric acid was used as prescribed in the pamphlet were such as might render the product deleterious to health.

The lot at Grand Rapids was alleged to be misbranded further in that the statement, "Heating has destroyed these germs in the contents of the can," appearing in its labeling, was false and misleading since instructions for canning as given in the labeling required no heating above the boiling point of water, and such heating is not sufficient to destroy all spoilage bacteria; in that the statement in its labeling, "In home canning only 212 degrees of heat can be produced," was false and misleading, since pressure cookers which are employed in home canning provide higher temperatures; and in that certain statements in its labeling which were quotations from an article entitled, "The Truth About Food Preservatives," were misleading, since such statements failed to reveal the material fact that they were made many years ago, before knowledge of the resistance of *clostridium botulinum*, and the dangers from it in canning, had been acquired; and in that the common or usual name of each ingredient, required by law to appear on the label or labeling, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since it appeared in an inconspicuous position on the flap of the larger envelope containing Mrs. Price's Compound.

The other lots were alleged to be misbranded further in that the statements appearing in their labeling whereby the home canner was admonished to sterilize jars, and particularly rubber rings, by boiling for 15 or 20 minutes were misleading since the directions for sterilizing were inadequate for the reason that sterilization of jars and rubber rings cannot always be accomplished by boiling for 15 or 20 minutes due to the heat resistance of spore-forming bacteria; and in that the statement in their labeling, "Wash thoroughly, as the most dangerous and the most difficult bacteria to destroy are in the soil," was misleading since it suggested and represented that the thorough washing of vegetables would eliminate the most dangerous and difficult bacteria to destroy, the common habitat of which is soil, whereas thorough washing of vegetables would not insure such effect.

Between June 26 and November 8, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5762. Adulteration of Akerite Glycerin Alternate. U. S. v. 1 Keg of Akerite (Alternate). Decree of condemnation and destruction. (F. D. C. No. 9463. Sample No. 23339–F.)

On March 1, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 1 keg, containing approximately 48 pounds, of Akerite Glycerin Alternate at Philadelphia, Pa., alleging that the article had been shipped on or about January 25, 1943, from Norwood Park, Ill., by the Akerite Chemical Works, Inc.; and charging that it was adulterated in that it contained an added poisonous and deleterious substance, diethylene glycol, which might have rendered the product injurious to health.

The article was also alleged to be adulterated under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices.

On March 23, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5763. Adulteration of red chili sauce. U. S. v. 19 Cases of Red Chili Sauce. Default decree of condemnation and destruction. (F. D. C. No. 11190. Sample No. 57652–F.)

On November 27, 1943, the United States attorney for the District of New Mexico filed a libel against 19 cases, each containing 24 jars, of red chili sauce at Roswell, N. Mex., alleging that the article had been shipped in interstate commerce on or about February 12, 1943, by the Valley Canning Co., Canutillo, Tex.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance by reason of the presence of worm and insect fragments. The article was labeled in part: (Jars) "Valley Brand Red Chili Sauce."

On December 28, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5764. Adulteration of miscellaneous foods. U. S. v. 223 Cases of Miscellaneous Foods, Drugs, and Cosmetics. Decree of condemnation. Products ordered released under bond for reprocessing and relabeling of good portion. (F. D. C. No. 8509. Sample No. 28246–F.)

Some of these products had been water-damaged and others were very old and deteriorated. They included, among other items, baby foods.

On October 5, 1942, the United States attorney for the Northern District of Georgia filed a libel against 223 cases of miscellaneous foods, drugs, and cosmetics at Atlanta, Ga., alleging that the articles had been shipped on or about September 16, 1942, by Wells and Harris from Norfolk, Va.; and charging that the food items were adulterated in that they had been held under insanitary conditions whereby they might have become contaminated with filth.

The cosmetic items were alleged to be adulterated under the provisions of the law applicable to cosmetics as reported in the notices of judgment on cosmetics. The drug items were alleged to be adulterated and misbranded under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices, No. 954.

On October 12, 1942, John W. Harris, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond for segregation and destruction of the unfit portion, and for reprocessing and relabeling of the good portion under the supervision of the Food and Drug Administration.

5765. Adulteration and misbranding of gravy mix. U. S. v. 10 Cases of Gravy Mix. Default decree of condemnation. Product ordered delivered for use by a government institution. (F. D. C. No. 10266. Sample No. 42714–F.)

On July 24, 1943, the United States attorney for the Western District of Washington filed a libel against 10 cases, each containing 5 cartons packed with 12 paper bags each, of gravy mix, alleging that the article had been shipped in interstate commerce on or about June 24, 1943, from Los Angeles, Calif., by the Aldama Products Co.; and charging that it was adulterated and misbranded. The article was labeled in part: (Paper bag) "E-Z Brown Gravy Mix Ingredients 1½ Ounces Make 1 Pint. Contains Wheat Flour, Salt, Vegetable Protein Derivative (An Artificial Seasoning), Dehydrated Onion, Celery, Peppers, Chili, Spices and Natural Flavoring."

The article was alleged to be adulterated in that a substance, artificial color, had been added thereto or mixed or packed therewith so as to make it appear better or of greater value than it was, that is, to make it appear to contain meat extractives. It was alleged to be misbranded (1) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents; (2) in that the mandatory declaration of net weight did not appear on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the label) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase, since the statement "Ingredients 1½ Ounces Make 1 Pint," was not a proper declaration of net weight; and (3) in that it contained artificial coloring and failed to bear labeling stating that fact.

On January 24, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered for use by a government institution.

5766. Adulteration and misbranding of chicken noodle soup mix. U. S. v. 24 Cases of Chicken Noodle Soup Mix. Default decree of condemnation and destruction. (F. D. C. No. 12494. Sample No. 75812–F.)

Examination of the product failed to show the presence of meat fibers. Chicken noodle soup is understood to be an article containing chicken extractives in addition to chicken fat.

On June 2, 1944, the United States attorney for the Western District of New York filed a libel against 24 cases, each containing 24 packages, of chicken noodle soup mix at Buffalo, N. Y., alleging that the article had been shipped on or about March 28, 1944, by the Weiss Noodle Co., from Cleveland, Ohio; and charging that it was adulterated and misbranded. The article was labeled in part: (Packages) "Mrs. Weiss' Home Style Chicken Noodle Soup Mix With Chicken Fat * * * Delicious Chicken Noodle Soup In A Jiffy."

The article was alleged to be adulterated in that a valuable constituent, chicken extractives, had been in whole or in part omitted; and in that a substance which consisted of noodles, vegetable oil, chicken fat, salt, artificial flavor, dehydrated vegetables, and seasoning had been substituted for a product which should have contained chicken extractives.

The article was alleged to be misbranded in that the statements, "Home Style Chicken Noodle Soup Mix," and "Delicious Chicken Noodle Soup In A Jiffy," were false and misleading as applied to an article which contained no chicken extractives other than fat; and in that it contained artificial flavoring and failed to bear labeling stating that fact.

On June 26, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5767. Misbranding of bean soup mix and pea soup mix. U. S. v. 351 Cases and 7 Cases of Bean Soup Mix, and 205 Cases and 14 Cases of Pea Soup Mix. Consent decree of condemnation. Product ordered released under bond for relabeling or repackaging. (F. D. C. No. 10931. Sample No. 11875–F.)

These products were contained in waxed paper bags and the bean soup mix occupied only 49 percent and the pea soup mix only 41 percent of the volume of the cardboard boxes in which they were packed.

On October 14, 1943, the United States attorney for the Northern District of California filed a libel against the above-named products at Berkeley, Calif., alleging that the articles had been shipped in interstate commerce on or about August 5 and September 1, 1943, by Louis Milani Foods, Inc., from Chicago, Ill.; and charging that they were misbranded in that their containers were so filled as to be misleading. They were labeled in part: (Package) "Milani's Dehydrated Bean Soup Mix with Bacon [or "Pea Soup Mix"]."

On November 30, 1943, Louis Milani Foods, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond for relabeling or repackaging under the supervision of the Food and Drug Administration.

5768. Misbranding of soup mixes. U. S. v. 14 Cases of Soup Mixes. Default decree of condemnation. Products ordered delivered to a charitable institution. (F. D. C. No. 10824. Sample Nos. 12895–F, 12896–F.)

On September 29, 1943, the United States attorney for the District of Oregon filed a libel against 14 cases, each containing 60 cartons, of soup mixes (7 cases of soup mix vegetable and 7 cases of soup mix potato) at Medford, Oreg., alleging that the articles had been shipped on or about June 19, 1943, by Treasure Island Food Products from Oakland, Calif.; and charging that it was misbranded in that the cartons, which measured about 4 x 3 x 1 inch, contained a cellophane bag partially filled with soup mixture and the container was so filled as to be misleading in that the vegetable soup mix occupied only 50 percent and the potato soup mix, 56 percent, of the volume of the carton. The article was labeled in part: (Carton) "Treasure Island Soup Mix."

On November 4, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered distributed to a charitable institution.

VITAMIN PREPARATIONS AND FOOD FOR SPECIAL DIETARY USES*

5769. Adulteration and misbranding of coconut milk and powdered milk of soya bean, and adulteration of candy. U. S. v. John Bruno Radcliffe (Radcliffe Soya Products). Plea of guilty. Defendant placed on probation. (F. D. C. No. 7260. Sample Nos. 13603–E, 13800–E, 21643–E, 21644–E, 61593–E, 63220–E, 85111–E to 85113–E, incl.)

The labeling of the coconut milk and the powdered milk of soya bean bore exaggerated claims regarding the nutritional properties of the articles. A portion of the coconut milk contained insect parts and a rodent-like hair, and various portions of the candy contained one or more of the following filthy substances: Rodent-type hairs and excreta, rodent pellets, larvae, beetles, mites, small flies, larva cast skins, larva capsules, larva and insect fragments, and worm capsules, skin, fragments, and cast skin.

On August 11, 1942, the United States attorney for the Northern District of California filed an information against John Bruno Radcliffe, trading as Radcliffe Soya Products, San Francisco, Calif., alleging shipment within the period from on or about February 8, 1940, to November 24, 1941, from the State of California into the States of Idaho and Washington of a quantity of food that was adulterated and misbranded. The article was labeled in part: (Cans) "Radcliffe's Original Powdered Milk of Soya Bean," or "Tropical Cocoanut Milk," (boxes) "Hollywood Candy Bar," (wrappers) "Papaya Fruit Bar," "Alfa-Soya-Bar Lime," "Soya-Milk-Bar Cherry Fudge," "Soya-Bar Cream Nut [or "Orange," "Cocoanut Fruit," or "Soya Brittle"]," or "Avocado Candy Bar."

The powdered milk of soya bean was alleged to be adulterated in that a mixture of powdered soya bean and powdered skim milk had been substituted in whole or in part for powdered milk of soya bean, which the article purported and was represented to be.

It was alleged to be misbranded because of false and misleading statements appearing in its labeling which represented and suggested that it was endorsed by the U. S. Department of Agriculture, Washington, D. C.; that it was original powdered milk of soya bean; that it was especially valuable for infant feeding and was as good as or better than mother's milk; and that it was rich in vitamins; that it was a nerve, brain, and gland rejuvenator; and that it was beneficial for diabetics.

A portion of the coconut milk was alleged to be adulterated in that it consisted in whole or in part of a filthy substance.

All of the coconut milk was alleged to be misbranded in that the statements appearing in the labeling which represented and suggested that it was a tropical coconut milk; that it would provide energy, strength, and vitality to the user; that it was efficacious for health building, and would be efficacious in the cure, mitigation, treatment, or prevention of colitis, underweight, weak stomach, stomach ulcers, nerve exhaustion and sleeplessness; and that it would be beneficial for convalescents, and was rich in vitamins and minerals, were false and misleading since it was not a tropical coconut milk and it would not be efficacious for the purposes claimed.

The coconut milk and the powdered milk of soya bean were also alleged to be misbranded under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices, No. 933.

The candy was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

On November 3, 1942, the defendant having entered a plea of guilty, the court placed him on probation for 2 years.

5770. Adulteration and misbranding of Hain Abgede Capsules. U. S. v. Harold Hain (Hain Pure Food Co.) Plea of not guilty. Tried to the court. Judgment of not guilty on counts charging violation of sections of the law applicable to foods; guilty on counts charging violation of sections of the law applicable to drugs. (F. D. C. No. 4154. Sample No. 32640–E.)

On September 10, 1941, the United States attorney for the Southern District of California filed an information against Harold Hain, trading as the Hain Pure Food Co., at Los Angeles, Calif., alleging shipment on or about October 11, 1940, from the State of California into the State of Arizona of a quantity of Hain Abgede Capsules.

The article was alleged to be an adulterated food in that a valuable constituent, vitamin B_1, had been in part omitted or abstracted therefrom.

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*See also Nos. 5688, 5689.

It was alleged to be a misbranded food (1) in that the statement, "Each Capsule Contains Not less than * * * B_1—45 Sherman (25 Int.) units," borne on the boxes, was false and misleading since the article contained not more than 15 International Units of vitamin B_1, equivalent to not more than 27 Sherman units of vitamin B_1; (2) in that the statement: "Vitamins A B_1 G D," borne on the boxes, was misleading since it represented that the article contained a consequential amount of each of the vitamins named, whereas it contained only an inconsequential amount of vitamins B_1 and G, and when consumed in the maximum dosage recommended and suggested, 2 capsules per day, it would supply not more than $\frac{1}{10}$ of the minimum daily requirement of an adult for vitamin B_1, and not more than $\frac{1}{40}$ of the minimum daily requirement of an adult for vitamin G.

The article was also charged to be an adulterated and misbranded drug as reported in drugs and devices notices of judgment, No. 919.

On September 29, 1941, the defendant entered a plea of not guilty. On April 15, 1943, the case having been submitted to the court on a stipulation of facts and briefs, the defendant was found not guilty of violating the provisions of the law applicable to foods, but was found guilty of violating the provisions applicable to drugs, and was fined $100 on each of the 2 counts on which he had been convicted. Sentence, however, was suspended on 1 of the said counts. The court's decision of not guilty on the 2 counts charging the product to be a food was based on an opinion that under the terms of the Federal Food, Drug, and Cosmetic Act vitamin preparations are drugs, but are not foods. The opinion of the court is printed in notice of judgment No. 919, covering drugs and devices.

5771. Adulteration and misbranding of Sentinel A & D Vitamin Tablets. U. S. v. Forest City Products, Inc. Plea of guilty. Fine, $150 and costs. (F. D. C. No. 10534. Sample No. 37737-F.)

On September 11, 1943, the United States attorney for the Northern District of Ohio filed an information against Forest City Products, Inc., Cleveland, Ohio, alleging shipment on or about January 12, 1943, from the State of Ohio into the State of Illinois of a quantity of the above-named product which was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, vitamin A, had been in whole or in part omitted or abstracted therefrom since it was represented to contain 5,000 U. S. P. units of vitamin A in each tablet, whereas it contained not more than 2,000 U. S. P. units of vitamin A in each tablet.

It was alleged to be misbranded in that the statement in its labeling, which represented that each of the tablets contained 5,000 U. S. P. units of vitamin A; that each of the tablets contained 1¼ times the minimum adult daily requirement of vitamin A; and that each tablet contained the amount of vitamin A contained in 1¼ teaspoonfuls of cod liver oil of minimum U. S. P. strength was false and misleading since each tablet contained not more than 2,000 units of vitamin A, not more than ½ of the minimum adult daily requirement of vitamin A, and not more than ½ the amount of vitamin A contained in 1¼ teaspoonfuls of cod liver oil of minimum U. S. P. strength. It was alleged to be misbranded further in that the statement "Essential for health," appearing in its labeling, was misleading since it suggested and created in the mind of the reader the impression that the article was essential for health, whereas it was not; and in that certain words, statements, or information required by the law to appear in the labeling were not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use, in that the article purported to be and was represented for special dietary use by man by reason of its vitamin property in respect of vitamin A and vitamin D, and the statement of the proportion of the minimum daily requirements for such vitamins which would be supplied by the article when consumed in a specified quantity during a period of 1 day, which statement is required by regulations promulgated pursuant to the law, was printed on the bottom of the box in small and inconspicuous type.

On October 22, 1943, the defendant having entered a plea of guilty, the court imposed a fine of $100 on the first count and $50 on the second count, together with costs.

5772. Adulteration and misbranding of Sentinel A & D Vitamin Tablets. U. S. v. 978 Cartons of Sentinel A & D Vitamin Tablets. Default decree of condemnation. Product ordered delivered for use of a local hospital. (F. D. C. No. 12111. Sample No. 61423–F.)

Examination of a sample of this article showed that it was approximately 40 percent deficient in vitamin D.

On April 3, 1944, the United States attorney for the Eastern District of Louisiana filed a libel against 978 cartons, each containing 30 tablets, of Sentinel A & D Vitamin Tablets at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about December 9, 1943, from Cleveland, Ohio, by Forest City Products, Inc.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, vitamin D, had been in part omitted or abstracted therefrom.

It was alleged to be misbranded in that the following statements appearing on its label, "30 Tablets Each containing * * * 500 U. S. P. Units Vitamin D * * * Each Tablet Contains * * * 500 U. S. P. Units Vitamin D * * * Which is 1¼ times the Minimum Adult Daily Requirement of Vitamins * * * D," were false and misleading as applied to an article which did not contain the represented amounts of vitamin D; in that the statement on its label, "Essential For Health," was misleading since such statement suggested that the article or an article of comparable composition was essential to the health of all individuals; and in that the statement required under the law to appear on the label, namely, the proportion of the minimum daily requirements of vitamins A and D supplied by a specified quantity of the article, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since it was inconspicuously placed on the label in small type on the bottom of the carton.

On June 12, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a local hospital for destruction by human consumption on its premises.

5773. Adulteration and misbranding of Watkins 80 Vitamins A-B-D-G Tablets. U. S. v. 10 Dozen Packages of Watkins 80 Vitamins A-B-D-G Tablets. Default decree of condemnation and destruction. (F. D. C. No. 10334. Sample No. 38809–F.)

On August 5, 1943, the United States attorney for the Northern District of Illinois filed a libel against the above-named product at Chicago, Ill., alleging that the article had been shipped in interstate commerce in April 1943, by the J. R. Watkins Co. from Winona, Minn. The article was labeled in part: "Each tablet contains 2,000 U. S. P. Units Vitamin A."

The article was alleged to be adulterated in that a valuable constituent, vitamin A, had been in whole or in part omitted or abstracted therefrom.

It was alleged to be misbranded in that the statement "Each Tablet contains 2000 U. S. P. Units of Vitamin A," borne on the label, and the statements in the labeling which represented that it would increase resistance of the body to infections and promote normal growth; that it would correct poor appetite, dry skin, lowered resistance to certain types of infection, lack of vigor, diarrhea, and digestive disturbances; that it would prevent xerophthalmia, an inflammatory eye disease, and correct night blindness; that it would prevent injury to the nerve tissues, neuritis, and polyneuritis; that it would promote the health of the skin and the mucous membranes; and that it was essential to normal motor, sensory, and central nervous system functions were false and misleading since it contained no significant amount of vitamin A, and since vitamin B_1 and vitamin B_2 in the article were not capable of producing the results claimed in the labeling. It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses, and its label failed to bear such information concerning its vitamin properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label did not state, as prescribed by such regulations, the proportion of the minimum daily requirements for vitamin A, B_1, D and G (B_2) which would be supplied by the article when consumed in a specified quantity during a period of 1 day, and its label failed to state that the need for other factors of the Vitamin B complex, such as pantothenic acid and vitamin B_6, in human nutrition has not been established.

On October 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5774. Adulteration and misbranding of Pantabee. U. S. v. 12 Bottles of Pantabee. Decree of condemnation. Product ordered delivered for use by a public institution. (F. D. C. No. 9410. Sample No. 24197–F.)

Biological assay showed that the article contained not more than 250 International Units of vitamin B_1 per capsule.

On February 20, 1943, the United States attorney for the District of Columbia filed a libel against 12 bottles, each containing 50 capsules, of Pantabee at Washington, D. C., alleging that the article had been shipped on or about January 13, 1943, from Richmond, Va., by Charles C. Haskell & Co., Inc.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, vitamin B_1, had been in part omitted therefrom.

It was alleged to be misbranded in that the statement, "Each capsule contains: Vitamin B_1 . . . 333 International Units," which appeared on the label of the article, was false, since each capsule did not contain 333 International Units of vitamin B_1; and in that it purported to be a food for special dietary uses by reason of its vitamin content, and its label failed to bear such information concerning its vitamin properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to state the proportion of the minimum daily requirement of vitamin B_1 and riboflavin furnished by the quantity of the article customarily or usually consumed during a period of 1 day, or a quantity reasonably suitable for and practicable of consumption during such period; and its label failed to state, as the regulations require, that the need for vitamin B_6 and "filtrate factor" in human nutrition has not been established.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices.

On June 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

5775. Adulteration and misbranding of Vitamin B Elixir. U. S. v. 33 Bottles of Hart's Vitamin B Elixir. Default decree of condemnation and destruction. (F. D. C. No. 8173. Sample No. 70908–E.)

This product contained 13.8 milligrams of nicotinic acid per fluid ounce.

On August 24, 1942, the United States attorney for the Northern District of Georgia filed a libel against 33 bottles, each containing ½ pint, of Hart's Vitamin B Elixir, at Atlanta, Ga., alleging that the article had been shipped on or about June 8, 1942, from New Orleans, La., by E. J. Hart and Co., Ltd.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constitutent, nicotinic acid, had been in part omitted therefrom.

It was alleged to be misbranded in that the label statement, "Each Fluidounce Contains: * * * Nicotinic Acid 20. mg.," was false since the article did not contain 20 milligrams of nicotinic acid per fluid ounce.

It was also alleged to be adulterated and misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices.

On May 6, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5776. Adulteration and misbranding of DPS Formula 50. U. S. v. 120 Bottles of DPS Formula 50. Default decree of condemnation and destruction. (F. D. C. No. 8407. Sample No. 13007–F.)

Examination showed that this product contained 230 micrograms (gammas) of riboflavin per tablet.

On September 26, 1942, the United States attorney for the District of Oregon filed a libel against 120 bottles, each containing 90 tablets, of DPS Formula 50 at Portland, Oreg., alleging that the article had been shipped on or about June 19 and July 9, 1942, from Los Angeles, Calif., by the Dartell Laboratories; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, riboflavin (vitamin B_2), had been in whole or in part omitted therefrom.

It was alleged to be misbranded (1) in that the statement appearing on its label, "Each Tablet Contains Not Less Than: * * * Vitamin B_2 348 Gammas," was false and misleading since it contained fewer than 348 gammas of vitamin B_2, 230 micrograms (gammas) per tablet; (2) in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient; and (3) in that it purported to be a food for special dietary use and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for vitamin B_1 and riboflavin (vitamin B_2) supplied by such food when consumed in a specified quantity during a period of 1 day, a statement of the proportion of the minimum daily requirement for calcium, iron, phosphorus, and iodine supplied by such food when consumed in a specified quantity during a period of 1 day, and a statement that the need for calcium pantothenate and vitamin B_6 in human nutrition has not been established.

The article was also alleged to be adulterated and misbranded under the provisions of law applicable to drugs as reported in the notices of judgment on drugs and devices, No. 968.

On November 4, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5777. Adulteration and misbranding of iron compound and yeast tablets. U. S. v. 4 Drums of Iron Compound and Yeast Tablets. Default decree of condemnation and destruction. (F. D. C. No. 8307. Sample No. 4811–F.)

On September 2, 1942, the United States attorney for the Northern District of Ohio filed a libel against 4 drums, each containing approximately 47,300 iron compound and yeast tablets, at Cleveland, Ohio, alleging that the article had been shipped in interstate commerce on or about February 14, 1942, by the Keith Victor Pharmacal Co., St. Louis, Mo.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that valuable constituents, vitamin B_1 and riboflavin, had been in whole or in part omitted or abstracted therefrom.

It was alleged to be misbranded in that the following statements on its label, "Each tablet contains B_1 (Thiamin Chloride) 50 International Units B_2 (Riboflavin) 25 Gamma," were false as applied to an article that contained not more than 25 International Units of vitamin B_1 per tablet, and not more than 15 gamma of riboflavin.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 967.

On October 16, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5778. Adulteration and misbranding of The Stuart Formula Tablets. U. S. v. 420 Bottles of The Stuart Formula Tablets. Decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9878. Sample No. 30573–F.)

Examination showed that this product contained less than 400 U. S. P. units of vitamin D per 3 tablets.

On May 12, 1943, the United States attorney for the Western District of Washington filed a libel against 420 bottles of The Stuart Formula Tablets at Seattle, Wash., alleging that the article had been shipped in interstate commerce, a portion on or about January 28 and February 18, 1943, from Pasadena, Calif., by The Stuart Co., and the remainder on or about April 16, 1943, from Los Angeles, Calif., by the Metropolitan Warehouse Co.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, vitamin D, had been in whole or in part abstracted or omitted therefrom.

It was alleged to be misbranded in that the statements appearing on its label, "Each 3 Tablets Standardized to Contain at Least: * * * Vitamin D . . . 800 U. S. P. or INT. Units (activated ergosterol) (2 times minimum need)," were false; and in that the statement, "Human need known—minimum requirements not yet established," appearing on the label, and as applied to vitamin B_6 and calcium pantothenate, was misleading since it engendered in the minds of the readers that it was the consensus of experts in the field of nutrition that these vitamins were necessary in human nutrition, whereas the need for these vitamins in human nutrition is not generally recognized by these experts as being established. It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses by reason in part of its calcium

pantothenate and vitamin B_6 content, and its label failed to bear such information concerning its vitamin properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear the statement, "The need for calcium pantothenate and vitamin B_6 in human nutrition has not been established," as required by the regulations.

On June 1, 1943, the William T. Thompson Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling in conformance with the law, under the supervision of the Food and Drug Administration.

5779. Adulteration and misbranding of elixir thiamine hydrochloride. U. S. v. 52 Bottles of Elixir Thiamine Hydrochloride. Decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 9591. Sample No. 23501–F.)

Examination showed that this product contained substantially less than 250 International Units (USP units) of vitamin B_1 per fluid ounce.

On March 19, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 52 bottles, each containing 1 gallon of the above-named product, at Philadelphia, Pa., alleging that the article had been shipped on or about February 2, 1943, from Newark, N. J., by the Standard Drug Co.; and charging that it was adulterated and misbranded. A portion of the article (35 bottles) was labeled in part: "Standard Elixir Vitamin B_1 N. J. F. Elixir Thiamin Hydrochloride. Each fluid ounce contains 500 Intern. Units Vitamin B_1." The remainder of the article (17 bottles) was relabeled by the consignee, and at the commencement of the libel proceedings was labeled in part: "Elixir Thiamin Hydrochloride * * * Each fluid ounce contains: Thiamine Hydrochloride—1.5 mg. (equivalent to Vitamin B–1—500 Units)."

The article was alleged to be adulterated in that a valuable constituent, vitamin B_1, had been in whole or in part omitted or abstracted therefrom.

It was alleged to be misbranded in that the following statements: (In the case of the portion bearing the original label) "Each fluid ounce contains 500 Intern. Units Vitamin B_1," and (in the case of the relabeled portion) "Each Fluid ounce Contains: Thiamine Hydrochloride—1.5 mg. (equivalent to Vitamin B–1—500 Units)," were false since the article contained a lesser amount of vitamin B_1 per fluid ounce. It was alleged to be misbranded further in that it purported to be a food for special dietary use by reason of its vitamin B_1 content, and its label failed to bear such information concerning its vitamin properties as had been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear a statement of the proportion of the minimum daily requirement of vitamin B_1 supplied by a specified quantity of the article when consumed as directed during a period of 1 day.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices.

On May 10, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered to be delivered to charitable institutions.

5780. Adulteration and misbranding of Ocean-Lax. U. S. v. 29 Bottles of Ocean-Lax. Decree of condemnation and destruction. (F. D. C. No. 6368. Sample Nos. 40885–E, 40886–E.)

On December 6, 1941, the United States attorney for the Eastern District of Pennsylvania filed a libel against 29 bottles of Ocean-Lax at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce within the period from on or about July 3 to August 11, 1941, by Mineralized Foods, Inc., from Baltimore, Md.; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that it contained deleterious substances, the laxative drugs, senna pods, purging cassia, and rhubarb root, which might render it injurious to health.

It was alleged to be misbranded in that the following statement, appearing on the label, created the impression that the article was appropriate for food purposes, whereas, because of its content of cathartic drugs, it was not suitable for such purpose "* * * Consists of an imported rare variety of Sea Vegetables high in alakalinity and food minerals carefully blended with * * * Each Ocean-Lax Tablet averages approximately 1½ milligrams of natural organic

food iodine inseparably combined by nature with all of the other organic food minerals naturally found in the Sea Plant ingredients of Ocean-Lax and proven to be essential to health. Note! (Government Bulletin quotation.) '. . . If a salad of marine grass (sea-plants) could be eaten daily by everyone, as is largely the custom in Japan, simple goiter, in all probability would be relatively infrequent.' * * * Millions in foreign countries have for many generations and still are eating Sea Plants as part of their diet."

The libel alleged that the product was also misbranded under the provisions of the law applicable to drugs, reported in drugs and devices notices of judgment, No. 913.

On March 4, 1942, Mineralized Foods, Inc., claimant, having filed an answer denying the adulteration and misbranding charges in the libel, and having filed a motion for removal of the proceedings to the District of Maryland, in which District the claimant had its principal place of business, the court denied such motion. The court's opinion in denying the motion is printed in drugs and devices notice of judgment No. 913.

On January 7, 1943, the claimant having withdrawn its claim and answer, judgment of condemnation was entered and the product was ordered destroyed.

5781. Adulteration and misbranding of Improved Kalpentum. U. S. v. 33 Bottles and 6 Bottles of Improved Kalpentum. Decree of destruction. (F. D. C. No. 9057. Sample No. 7387–F.)

This product was represented as containing 10 milligrams of calcium pantothenate and 333 U. S. P. units of vitamin B_1 per tablet. Examination showed that it contained approximately the declared amount of calcium pantothenate but not more than 250 U. S. P. units of vitamin B_1 per tablet. Its labeling represented and suggested that the article, when taken as directed, might reasonably be expected to restore the color to gray hair, whereas it would not accomplish the results suggested and implied.

On December 31, 1942, the United States attorney for the District of Minnesota filed a libel against 33 bottles, each containing 30 tablets, and 6 bottles, each containing 100 tablets, of Improved Kalpentum at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce on or about October 6, 1942, from Newark, N. J., by the Vitamin Corporation of America; and charging that it was adulterated and misbranded.

The article was alleged to be adulterated in that a valuable constituent, vitamin B_1, had been in whole or in part omitted or abstracted therefrom.

It was alleged to be misbranded in that the statement appearing on its label, "Each tablet contains * * * 333 USP Units Vitamin B_1," was false. It was alleged to be misbranded further by reason of the following statements appearing on its label: "Calcium Pantothenate (anti-gray hair factor) * * * These tablets may prevent premature graying of the hair if caused by a lack of Calcium Pantothenate, a factor of the Vitamin B Complex. Clinical experiments have shown darkening of the hair in some cases, in 1 month's time, others ranged from 3 months to 1 year. No harmful effects have been experienced from this treatment. * * * As directed by physician or one tablet per day for three months, thereafter two per day for nine months."

On February 19, 1943, no claimant having appeared, judgment was entered ordering that the product be destroyed.

5782. Misbranding of Pretorius Graytex. U. S. v. 6 Packages and 31 Packages of Pretorius Graytex. Default decree of condemnation and destruction. (F. D. C. No. 9205. Sample No. 13724–F.)

On January 18, 1943, the United States attorney for the Southern District of California filed a libel against 6 packages, each containing 100 tablets, and 31 packages, each containing 30 tablets, of the above-named product at Glendale, Calif., alleging that the article had been shipped in interstate commerce on or about May 1 and 6, 1942, by the Freshman Vitamin Co. from Detroit, Mich.; and charging that it was misbranded.

Examination showed that the article contained not more than 8 milligrams of calcium pantothenate per tablet and not more than 265 U. S. P. units of vitamin B_1 per tablet.

The article was alleged to be misbranded in that the following statements appearing in its labeling, "Each Tablet contains: 10 Mgm. (10,000 Micrograms) Calcium Pantothenate * * * 333 USP Units Vitamin B_1," were false and misleading since the article did not contain the declared amounts of calcium pantothenate and vitamin B_1. It was alleged to be misbranded further in

that the statements appearing in its label, which represented and suggested that the article was effective to restore the natural color to gray hair and to prevent the premature graying of hair, and that the need for calcium pantothenate in human nutrition had been established although the actual daily requirements therefor had not been established as yet, were false and misleading since the article was not effective to restore the natural color to gray hair, and would not prevent the premature graying of hair, and the need for calcium pantothenate in human nutrition has not been established.

On March 11, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5783. Misbranding of Wheatamin Brand Panto-Caps. U. S. v. 7 Bottles of Wheatamin Brand Panto-Caps. Default decree of condemnation and destruction. (F. D. C. No. 9574. Sample No. 38016–F.)

Examination showed that this product contained 10 milligrams of calcium pantothenate per tablet.

On or about March 25, 1943, the United States attorney for the Northern District of Illinois filed a libel against 7 bottles of the above-named product at Chicago, Ill., alleging that the article had been shipped on April 13, 1942, in interstate commerce from Holland, Mich., by the DePree Co.; and charging that it was misbranded.

It was alleged to be misbranded in that certain statements appearing in its labeling which represented and suggested that the article, when used as directed, was effective in preventing the graying of hair and in restoring the natural color to gray hair, were false and misleading since the article was not so effective.

On May 8, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5784. Misbranding of wheat germ. U. S. v. Commander Larrabee Milling Co. (Minneapolis Milling Co.). Plea of guilty. Fine, $100. (F. D. C. No. 9677. Sample No. 37818–F.)

On October 21, 1943, the United States attorney for the District of Minnesota filed an information against the Commander Larrabee Milling Co., trading as the Minneapolis Milling Co., Minneapolis, Minn., alleging shipment in interstate commerce on or about January 21, 1943, from the State of Minnesota into the State of Illinois of a quantity of wheat germ which was misbranded. The article was labeled in part: "P. W. G. Pure Wheat Germ."

It was alleged to be misbranded in that it purported to be and was represented as a food for special dietary use by man by reason of its vitamin properties, and its label did not bear such information concerning its vitamin properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such use, since its label did not bear a statement of the proportions of the minimum daily requirements for vitamin B_1 and riboflavin which would be supplied by it when consumed as directed during a period of 1 day; nor did the label bear a statement of the quantity of vitamin E contained in a given quantity of the article, and it did not bear a statement that the need in human nutrition for vitamin E has not been established.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

On October 21, 1943, a plea of guilty was entered to all charges, and the court imposed a fine of $100 which covered both counts of the information.

5785. Misbranding of wheat germ. U. S. v. 14½ Cases of Wheat Germ. Decree ordering destruction of the product. (F. D. C. No. 10394. Sample No. 48103–F.)

On August 13, 1943, the United States attorney for the Southern District of Ohio filed a libel against 14½ cases, each containing 1 dozen 10-ounce packages, of wheat germ at Athens, Ohio, alleging that the article had been shipped in interstate commerce on or about May 11, 1943, by the Hayden Flour Mills, Inc., Tecumseh, Mich.; and charging that it was misbranded. The article was labeled in part: "Hayden's Caramelized Wheat Germ."

The article was alleged to be misbranded in that the statements appearing in its labeling which represented that it takes about 30 pounds of wheat to produce 1 pound of the article; that it would be efficacious in the treatment of constipation, arthritis, poor appetite, retarded growth, lowered vitality, nervousness, poor digestion, gray hair, degeneration of the nervous system, enlarge-

ment of the heart, atrophy of the muscles, loss of appetite, stomach ulcer, loss of weight and failure to grow, neuritis, eczema, and nervousness; that it would build resistance and contained blood-building minerals; that it would help restore the normal peristaltic action of the intestines and would stimulate the appetite, put pep in the step, help convert the food into energy, aid digestion, promote general health and bring about steadier nerves, stimulate normal growth in infants and children, and would help children put on weight and grow faster; that it constituted an essential part of the diet of all children, and would increase resistance to colds and infections; that it was especially beneficial to nursing mothers; and that it would help prevent baldness and gray hair, and cause gray hair to grow in its natural color at the roots were false and misleading since consumption of the product would not effect the results claimed or suggested, and since 1 pound of the product did not represent the wheat germ content of 300 pounds of wheat.

The article was alleged to be misbranded further (1) in that it was represented for special dietary uses by reason of its vitamin content, and its label failed to bear such information concerning its vitamin properties as has been determined to be, and by regulations prescribed as, necessary fully to inform purchasers as to its value for such uses, since its label failed to bear a statement of the proportions of the minimum daily requirement of vitamins B_1 and G and the quantity of vitamin E supplied by such food when consumed in a specified quantity during a period of 1 day, and since its label failed to bear a statement that the need in human nutrition for vitamin E has not been established; and (2) in that the statement of the quantity of the contents was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, and devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

The article was also charged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

On October 1, 1943, no claimant having appeared, judgment was entered ordering that the product be destroyed.

5786. Misbranding of Viteen. U. S. v. 2,369 Jars and 929 Jars of Viteen. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 8862. Sample Nos. 1937–F, 1947–F.)

Examination showed that the article consisted primarily of dried skimmed milk with smaller proportions of egg yolk, a sugar, cereal products, calcium and phosporus compounds, and flavoring material. It contained 27.8 percent protein, 10.3 percent mineral ash, 2.4 percent calcium, and 1.54 percent phosphorus.

On November 17, 1942, the United States attorney for the Northern District of Illinois filed a libel against 2,369 jars, 8-ounce size, and 929 jars, 18-ounce size, of Viteen at Chicago, Ill., alleging that the article had been shipped in interstate commerce within the period from on or about August 15 to October 27, 1942, from Rochester, N. Y., by L. N. LeBold & Co.; and charging that it was misbranded.

It was alleged to be misbranded in that the statements, designs, and devices appearing in its labeling which represented and suggested that the article constituted a suitable dietary supplement for use in restricted and unbalanced diets of various types and whenever disturbances were apt to occur due to nutritional deficiencies, and that the use of the article would result in the reduction of weight were false and misleading since the article did not constitute a suitable dietary supplement for use in such conditions, and its use would not result in the reduction of weight. It was alleged to be misbranded further in that the following statements appearing in its labeling, "Analysis Each 100 grams of Viteen * * * contains: * * * Proteins * * * 31.95 Mineral Ash 13.28 Calcium 3.19 Phosphorus 1.79," were false and misleading since each 100 grams of the article did not contain the represented amounts of the ingredients named.

It was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in the notices of judgment on drugs and devices, No. 990.

On December 1, 1942, L. N. LeBold & Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Food and Drug Administration.

5787. Misbranding of Thompson's Daily Vitamin and Mineral Ration. U. S. v. 8 Cartons of Thompson's Daily Vitamin and Mineral Ration. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9040. Sample No. 13242–F.)

This product was represented in its labeling as supplying 1¼ times the minimum adult daily requirements of vitamins A and D, the minimum adult daily requirement of vitamin C and riboflavin, and 3 times the minimum adult daily requirement of vitamin B_1. It was also represented as containing specified amounts of vitamin B_6, niacin amide, pantothenic acid, and biotin, as well as calcium, phosphorus, iodine, iron, and copper.

On December 24, 1942, the United States attorney for the Western District of Washington filed a libel against 8 cartons, each containing 100 boxes, of the above-named product at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about October 12, 15, and 20, 1942, from Los Angeles, Calif., by the William T. Thompson Co.; and charging that it was misbranded.

The article was alleged to be misbranded in that the following statements appearing on the display card accompanying the article, "Vitamins For Vitality Improve your health! . . . Take the drudgery out of work . . . Put more pep in your play . . . Reduce colds . . . Cut down fatigue . . . Improve appetite and digestion . . . Build nervous stability . . . Prevent impaired eyesight due to Vitamin deficiencies . . . Build up your blood count . . . Prevent dental cavities, bleeding gums, due to deficiencies of Vitamins D, C, and Calcium," were false and misleading since such statements represented and suggested that the article would be effective for the purposes and conditions stated and implied, whereas it would not be so effective.

The article was also alleged to be misbranded under the provisions of law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 997.

On January 14, 1943, the William T. Thompson Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5788. Misbranding of Vita Malt. U. S. v. 51 Combination Packages of Vita Malt with Natura Calcium Compound. Default decree of condemnation and destruction. (F. D. C. No. 5226. Sample No. 60296–E.)

On July 30, 1941, the United States attorney for the Western District of Washington filed a libel against 51 combination packages of Vita Malt with Natura Calcium Compound, alleging shipment on or about May 23, 1941, from Los Angeles, Calif., to Olympia, Wash., by the Natura Remedy Co., Los Angeles, Calif. In each combination package was a bottle labeled in part: "Vita Malt Contains Vitamins," and a package labeled in part: "Natura Calcium Compound," together with a circular entitled, "Do you know that Vitamins Build Health," and a leaflet entitled, "Now You Can Reduce Safely."

Analysis of a sample of Vita Malt showed that it was essentially a malt extract, with small amounts of saponifiable oils, water, and sodium benzoate.

It was alleged to be misbranded in that the statements on the label which represented and suggested that it would be effective in reducing body weight were false and misleading since it was not effective for this purpose. It was alleged to be misbranded further in that the statements in the labeling which represented and suggested that it would be of value in the treatment of a variety of pathological conditions such as anemia, nervousness, glandular disturbances, lack of appetite, infections, sleeplessness, rheumatism, neuritis, and arthritis were false and misleading since it would be of no value in the treatment of such pathological conditions.

The Vita Malt and Natura Calcium Compound were also alleged to be misbranded as reported in drugs and devices notices of judgment, No. 945.

On December 1, 1941, the Natura Remedy Co. having intervened and petitioned for removal of the case, the court entered an order removing it to the Southern District of California. The Government thereupon filed a motion to remand the case to the Western District of Washington on the ground that the parties had stipulated for transfer to the Northern District of California, and that the Southern District of California had no jurisdiction. On March 24, 1942, the Government's motion to remand the case was denied by the court without opinion. On October 13, 1942, the petition of intervention and answer of the Natura Remedy Co. having been withdrawn, a default judgment of condemnation was entered and the product was ordered destroyed.

5789. Misbranding of Vitaminerals. U. S. v. 6 Bottles of Vitaminerals VM No. 1, et al. Default decree of condemnation and destruction. (F. D. C. Nos. 7938, 7939, 7941, 7942. Sample Nos. 81451–E, 81452–E, 81454–E to 81456–E, incl.)

On July 29, 1942, the United States attorney for the District of Colorado filed a libel at Denver, Colo., against 6 bottles of Vitaminerals VM No. 1, 7 boxes of Vitaminerals VM No. 1+, 8 bottles of Vitaminerals VM No. 100, and 35 bottles of Vitaminerals VM No. 120. A part of one of the shipments consisted of some booklets entitled "Vitamineral Therapy" and some cards entitled "Therapy Chart Doctors' Reference Chart." The article had been consigned in interstate commerce within the period from on or about May 5 to May 27, 1942, by the Vitaminerals Co. from Los Angeles, Calif.

Examination of a sample of Vitaminerals VM No. 1 showed that the article consisted mainly of rhubarb root with smaller proportions of other plant materials, including Irish moss, okra, cranberry fruit, and parsley leaf. The tablets, including coating, weighed 0.7 gram each, of which 0.2 gram was mineral matter. It was alleged to be misbranded in that the statements in the booklet entitled "Vitamineral Therapy" and upon the card entitled "Therapy Chart Doctors' Reference Chart," relating to the article were false and misleading since they represented and suggested that the preparation was essentially a vitamin constipation tablet or a vitamin-mineral laxative, and was a dietary supplement and a food. In fact, the preparation was not a vitamin constipation tablet or a vitamin-mineral laxative, but was essentially a rhubarb laxative, and was not a dietary supplement or a food. It was alleged to be misbranded further in that it was represented and suggested as a primary or secondary supplement in cases of arthritis due to excess calcium, arthritis due to systemic origins, colds, hemorrhoids, neuralgia, neurosis, obesity, and tonsilitis, whereas it would not be effective for any of these conditions.

Examination of a sample of Vitaminerals VM No. 1+ showed that the article consisted essentially of plant materials, including rhubarb root, cascara sagrada, podophyllum, Irish moss, cranberry fruit, parsley leaf, okra, a pungent drug such as cayenne pepper, and traces of peanut hull, and seed coat tissues. The article was alleged to be misbranded in that the statements appearing in the booklet and the card referred to above concerning this article were false and misleading since they represented and suggested that it was a vitamin laxative or a vitamin-mineral laxative, and a dietary supplement. The preparation was essentially a rhubarb, cascara, and podophyllum laxative, and it was not a dietary supplement. It was alleged to be misbranded further in that it was offered as a primary or secondary supplement in the treatment of cases of colds, intestinal cramps, hemorrhoids, systemic hypertension, biliary stasis, engorgement of the liver, jaundice, malaria, neuralgia, neurosis, obesity, and tonsilitis, whereas it would not be efficacious for these purposes.

Examination of a sample of Vitaminerals VM No. 120 showed that the article consisted essentially of aluminum sulfate (approximately 15 percent), iron sulfate (approximately 9 percent), glycerine, and water. The article was alleged to be misbranded in that the statements "containing ferric sulphate," appearing on the carton and bottle labels, and "Vitamineral No. 120 Ferric Sulphate, Ferrous Sulphate and Ferric Phosphate," in the booklet entitled "Vitaminerals Therapy," were false and misleading since the article did not contain any ferric phosphate, and since such statements failed to reveal that the article contained a preponderating proportion of the astringent drug aluminum sulfate. It was alleged to be misbranded further in that the therapeutic claims made in the booklet "Vitamineral Therapy" and upon the card "Therapy Chart Doctors' Reference Chart" were false and misleading since the article was not efficacious for the purposes claimed. Some of the representations and suggestions made were that the article would be effective for use in colonic therapy, as a mouth wash, gargle, and swab, for trench mouth, and as a nasal douche. It was offered as an eye wash, for local infections of the ear canal, cuts, sores, hemorrhoids, and gastric ulcers. It was further offered as a primary or secondary supplemental treatment in the following conditions: Acne, acidosis, albuminuria, alcoholic, neuritis, ameba, amenorrhea, anemia, angina pectoris, asthenia, asthma, boils, Bright's disease, calculi of the bladder and kidneys, calcium in lenses, catarrh, colitis, colon diseases, corneal ulceration, intestinal and uterine cramps, cystitis, diarrhea, faulty digestion, dysmenorrhea, ear infections, eczema, empyema, endocervicitis, endometritis, enteritis, eye infections, fistula, gall bladder inflammation, gallstone, gastritis, gastrointestinal disturbances, hay fever, hemeralopia, hemophilia, uterine hemorrhage, hives, impetigo, influenza, intestinal disorders, keratomalacia, kidney disorders, kidney inflammation, laryngitis, leg ulcers, leucorrhea, diseases of the liver,

lymph infections, mal-petit-grand, malaria, malnutrition, excessive, deficient, or painful menstruation, miscarriage, nausea and vomiting of pregnancy, neurasthenia, old age, ophthalmia, orchitis, polypus—vaginal, uterine, and rectal, prostatitis, proctitis, psoriasis, pterygium, pyorrhea, lack of resistance, respiratory infections, septicemia, shingles, sinusitis, skin dsorders, sty, loose teeth, tetany, tonsilitis, trench mouth, tuberculosis, duodenal, gastric, and stomach ulcers, uterine prolapsis, vaginitis, varicose ulcers and veins, tape or helminth worms, and xerophthalmia.

The articles were also alleged to be misbranded under the provisions of the law applicable to drugs as reported in drugs and devices notices of judgment, No. 946.

On September 21, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5790. Misbranding of Vitasol The 6-V Health Builder. U. S. v. 107 Jars of "Vitasol The 6–V Health Builder." Default decree of condemnation and destruction. (F. D. C. No. 7484. Sample No. 90189–E.)

On May 11, 1942, the United States attorney for the District of Massachusetts filed a libel against 107 jars of the above-named product at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about April 28, 1942, by the Vitasol Corporation from Brooklyn, N. Y.; and charging that it was misbranded.

The article was labeled in part: "Vitasol * * * Approximate composition of one ounce of Vitasol 1,000 U. S. P. Units Vitamin A, 150 International Units Vitamin B_1, 50 Sherman Bourquin Units Vitamin B_2 (G), 50 International Units Vitamin C, 2,000 U. S. P. Units Vitamin D, added Vitamin E (Wheat Germ) Minerals Grams Per Ounce Calcium—0.160, Iron—0.0067, Phosphorus—0.170 * * * Ingedients Deliciously flavored and skillfully blended with Pure Sugar, Cocoa, Dry Milk Solids, Malted Milk, Barley, Malt, Dextrose, Yeast, Soy Bean, Vanillin."

The article was alleged to be misbranded in that the following statements in the labeling: "Vitasol * * * The 6–V Health Builder * * * Dedicated to the Betterment of Health * * * Vitamin A is vital to eyesight. Vitamins B_1, B_2 (G) stimulates the appetite, aids digestion. Vitamin C favors good bone and tooth formation, prevents scurvy. The 'Sunshine Vitamin D' is important to general health, utilizes calcium and phosphorus in building strong teeth and bones. Organic Iron helps increase red corpuscle growth. Yeast as an aid to good blood and body functions. Dextrose for restoring energy. Soy Bean rich in protein (strength food). * * * Vitasol is a * * * health builder * * * prepared to provide a wide variety of protecting food elements (not available in the ordinary diet) essential to abundant vitality and health. * * * quick revitalizing food for all active adults.—Vitamins Vigor Vitality," were false and misleading since they represented and suggested that the article was capable of building health, was vital to eyesight, would stimulate the appetite, would aid digestion, would insure good bone and tooth formation, would increase the red corpuscle content of the blood, would restore energy, would insure strength, and would provide nutritional elements not available in the ordinary diet which are essential to vitality and health, whereas the article would not accomplish the results or fulfill the promises of benefits represented or suggested for it.

The article was also alleged to be misbranded in violation of the provisions of the law applicable to drugs, reported in drugs and devices notices of judgment, No. 947.

On November 30, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5791. Misbranding of Bemax. U. S. v. 996 Dozen Tins of Bemax. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9269. Sample Nos. 18925–F to 18928–F, incl., 18989–F to 18993–F, incl.)

This product was represented to contain 380 International Units of vitamin B_1 per ounce, whereas portions contained not more than 300 International Units of vitamin B_1 per ounce.

On February 3, 1943, the United States attorney for the District of New Jersey filed a libel against 996 dozen tins of Bemax at Bloomfield, N. J., alleging that the article, which had been consigned by Vitamins Limited, London, England, had been delivered to Bemax Laboratoies, Inc., Bloomfield, N. J., from London, England, within the period from on or about June 24, 1940, to April 25,

1941; and charging that it was misbranded. The article was labeled in part: "Bemax Stabilized and Standardized Entire Wheat Germ."

A portion of the article was alleged to be misbranded in that the statement, "Bemax averages 380 International units of vitamin B_1 (thiamin) to the ounce," appearing on the label, was false and misleading since it contained less than 380 International Units of vitamin B_1 per ounce.

All lots were alleged to be misbranded (1) in that the following statements appearing in their labeling: "Mineral Analysis Mg. per oz. Calcium (Ca) 16.2 Phosphorus (P) 312 Iron (Fe) 2.7 Copper (Cu) .43 Magnesium (Mg) 93 Sodium and Potassium (Na + K) 192 Chlorine (Cl) 5 Manganese (Mn) 4," were misleading since such statements represented and suggested that the article contained nutritionally significant amounts of the minerals specified, whereas the article did not contain such amounts of those minerals; (2) in that the common or usual name of the food, wheat germ, required by the law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, and designs in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and (3) in that the article purported to be and was represented as a food for special dietary uses by reason of its content of vitamin B_1 and the associated vitamins, mineral elements, and other nutritional factors of cereal embryo, and its label failed to bear such information concerning its vitamin and mineral properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label did not state the proportion of the minimum daily requirement of vitamin B_1, riboflavin, iron, and calcium contained in a specified quantity of such food which is customarily or usually consumed during a period of 1 day.

On June 24, 1943, Bemax Laboratories, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Food and Drug Administration, so that it would comply with the requirements of the law.

5792. Misbranding of Betene. U. S. v. 79 Packages of Betene. Default decree of condemnation and destruction. (F. D. C. No. 10050. Sample No. 8127–F.)

Examination of this product indicated that it was essentially a mixture of powdered skim milk, dried egg yolk, saccharin, cereal products, flavors, and combined calcium and phosphorus.

On June 5, 1943, the United States attorney for the District of Minnesota filed a libel against 79 packages of Betene at Faribault, Minn., alleging that the article had been shipped in interstate commerce on or about March 3 and 26, 1943, by the Vegetable Juice & Products Co., from Rochester, N. Y.; and charging that it was misbranded. The article was labeled in part: "Betene * * * A Special Dietary Supplement * * * L. H. Steward Corporation Rochester, New York."

The article was alleged to be misbranded in that the statements appearing on the label and in the circular entitled "Ive Found the sure Way to Acquire Normal Weight," which accompanied the article in interstate commerce, were false and misleading since they represented and suggested and created in the mind of the reader the impression that the article, when consumed as directed, would cause an increase in weight and add to the vigor and vitality of the user; and also that, when consumed as directed, it constituted a sure, sane, safe, and effective way to reduce, whereas it would not accomplish such results. It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content, and its label failed to bear such information concerning its vitamin and mineral properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear, as the regulations require, a statement of the proportion of the minimum daily requirements of vitamins A, B_1, C. D, riboflavin, calcium, and phosphorus furnished by a specified quantity of the product when consumed as directed during a period of 1 day.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs reported in drugs and devices notices of judgment, No. 937.

On June 27, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5793. Misbranding of Formula 8—12 Vitamins—Minerals. U. S. v. 30 Dozen Bottles of Formula 8—12 Vitamins—Minerals. Default decree of condemnation and destruction. (F. D. C. No. 9393. Sample No. 32614–F.)

On February 24, 1943, the United States attorney for the Southern District of Indiana filed a libel against 30 dozen bottles of the above-described product at Indianapolis, Ind., alleging that the article had been shipped in interstate commerce within the period from on or about January 10 to 14, 1943, by the Universal Products Co. from Cleveland, Ohio. The article was labeled in part: "Formulas 8—12 Vitamins—Minerals Contains Soy Bean Meal, Wheat Embryo, Gum Karaya, Brewer's Yeast, Kaolin, Kelp, Activated Ergosterol, Natural Vitamin A Ester, Thiamin Hydrochloride, Riboflavin, Dicalcium Phosphate, Iron Bihydrogen, Potassium Iodide and Oil of Orange."

The article was alleged to be misbranded in that statements which appeared on the label which represented and suggested that the article was of significant nutritional value by reason of the presence therein of Vitamin E, Vitamin B_6, and other factors of the B complex as found in brewer's yeast and the elements, potassium, sulfur, sodium, magnesium, copper, zinc, chlorine, and manganese were false and misleading since the product was not of significant value by reason of the presence therein of such vitamin factors and elements.

It was alleged to be misbranded further in that representations in the labeling that consumption of the product would insure normal functioning of the brain, eye, pituitary gland, parathyroid gland, thymus, heart, liver, and gall bladder, stomach and digestive system, gastro-intestinal tract, pancreas, suprarenals and adrenals, kidneys, bladder, gonads, prostate, nerves, arteries, veins, lymphatics (blood and blood vessels), muscles, bones, joints, ligaments, tendons, marrow, pineal gland, the ear, eye, spinal cord, spleen, hair, teeth and gums, thymus, lungs, mammary gland, regenerative system (ovary, placenta, prostate–gonads, etc.), and the nails; and that the article would be efficacious in the treatment or prevention of colds, infections of the lungs, formation of kidney stones and infections, the formation of bladder stones, cystitis, and other bladder infections, muscular spasms, cramps, exhaustion, inflammation and paralysis, ulcer of the eye, conjunctivitis, cataract, and night blindness, scaliness, dryness, paleness of the skin and various skin sores, gum infections, scurvy and loose teeth; and that it would be efficacious to promote health and cause the hair to become glossy and healthy were false and misleading since consumption of the article would not insure normal functioning of the various organs of the body as represented and would not be efficacious in the treatment or prevention of the various disease conditions mentioned and suggested.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs reported in drugs and devices notices of judgment, No. 944.

On April 22, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5794. Misbranding of Spark-O-Life. U. S. v. 418 Packages of Spark-O-Life. Decree of destruction. (F. D. C. No. 9197. Sample No. 2547–F.)

On or about January 20, 1943, the United States attorney for the Western District of Missouri filed a libel against 418 packages, each containing 24 ounces, of Spark-O-Life at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about January 6, 8, 11, and 13, 1943, from Kansas City, Kans., by Spark-O-Life Co.; and charging that it was misbranded.

The article was alleged to be misbranded in that the statements appearing in its labeling which represented and suggested that the article was pure, unadulterated wheat embryo (germ); that, when taken as recommended, it was of important nutritional significance because of its content of riboflavin, vitamin E, magnesium, calcium, and iron; that it was effective in preventing or overcoming fatigue, lack of stamina, constipation, joint pains, and various types of nervous and digestive diseases; that it was effective to promote health and build new energy; and that a boxful of the article contained all of the wheat germ which would be derived from 750 pounds of wheat, or the total quantity of wheat produced on 1 acre of rich wheat land, were false and misleading since the article was a mixture of wheat germ, wheat bran, and wheat flour; the riboflavin, vitamin E, magnesium, calcium, and iron content of the article was not of important nutritional significance; the article was not effective in preventing or overcoming the conditions mentioned, and would not promote health and build

new energy; and 1 boxful of the article did not contain the amount of wheat germ represented or suggested.

It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary use by reason of its content of vitamin B_1, riboflavin, vitamin E, phosphorus, magnesium, calcium, and iron, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label did not state the proportion of the minimum daily requirement of vitamin B_1 and riboflavin, phosphorus, calcium, and iron contained in a specified quantity of the food which was customarily or usually consumed during a period of 1 day; it did not state the amount of vitamin E contained in a specified quantity of the food and that the need for vitamin E in human nutrition has not been established; and it did not state the quantity of magnesium contained in a specified amount of the food.

On March 22, 1943, no claimant having appeared, the court entered its findings that the product was misbranded and adjudged and decreed that "the findings and judgment herein extend to, and include, the name, Spark-O-Life, as it is written and printed upon the container cans (packages) described in the libel filed herein, with the other writings found to be effective as a misbranding of the product in question, it being the finding and the judgment of the court that such said name is not a name common, or usual, or practicable, to describe products such as is described generally on the label which is quoted in the said libel." The court further ordered that the product be destroyed.

5795. Misbranding of Allen's Nijara Capsules. U. S. v. 16 Dozen Packages and 71 Boxes of Allen's Nijara Capsules. Decrees of condemnation and destruction. (F. D. C. Nos. 9707, 9739. Sample Nos. 37143–F, 37149–F.)

This product consisted of dried green stem and leaf material, including in 1 lot such material as parsley and watercress, and in the other lot a considerable proportion of tissues resembling parsley. Examination of a sample showed that it contained not more than 5 U. S. P. units of thiamine (about 1/60 the minimum daily requirement of thiamine), and but an inconsequential amount, if any, of ascorbic acid, riboflavin, nicotinic acid and vitamin D.

On March 25 and April 2, 1943, the United States attorney for the District of Columbia filed libels against 16 dozen packages and 71 boxes of Allen's Nijara Capsules at Washington, D. C., alleging that the article, which had been consigned by the Allen Products Co., Inc., Washington, D. C., on or about February 24 and March 23, 1943, was in interstate commerce; and charging that it was misbranded. It was labeled in part: (Packages and boxes) "Twenty (20) Capsules Allen's Nijara Composed of the following ingredients only: Asparagus, Parsley, Watercress, Broccoli. For Adults: Suggested Daily Dosage: Five (5) capsules daily."

The article was alleged to be misbranded in that the statements appearing in its labeling, in the leaflet entitled "Allen's Nijara," attached to the packages and boxes containing the article, which represented and suggested that the article was effective to soothe pain, provide relief from rheumatism, arthritis, neuritis, sciatica, gout, lumbago, and sinusitis; that it would supply a mineral deficiency in the diet and provide pain relief from rheumatic disorders; that it was effective more quickly in the treatment of mild cases of the symptoms and diseases mentioned than in cases of long standing; and that, when taken in accordance with the directions, it would supply the body with its needs for such important minerals as calcium and phosphorus, with such important vitamins as thiamine, riboflavin, ascorbic acid, nicotinic acid, and vitamin D, were false and misleading since it was not so effective and would not supply the body with its needs for the minerals and vitamins mentioned.

It was alleged to be misbranded further in that it purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content, and its label failed to bear such information regarding its vitamin and mineral properties as has been determined to be and by regulations prescribed as necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear a statement of the dietary properties upon which such uses were based, including the presence or absence of specific essential minerals and vitamins; and in that the statement, "only fresh vegetables are used in compounding Allen's Nijara," appearing in its labeling, was false

and misleading since the article was compounded of dried vegetables, not fresh vegetables, and did not provide the vitamins that some vegetables provide in their fresh state.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

On May 12, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5796. Misbranding of Bovex. U. S. v. 21 Bottles of Bovex. Default decree of condemnation and destruction. (F. D. C. No. 9808. Sample No. 31130–F.)

Analysis showed that the article consisted of an oil such as linseed and wheat-germ oil with a small amount of calcium carbonate and water.

On April 23, 1943, the United States attorney for the Northern District of California filed a libel against 21 1-pint bottles of Bovex at Petaluma, Calif., alleging that the article had been shipped in interstate commerce from Portland, Oreg., on or about March 23, 1943, by the Triangle Milling Co.; and charging that it was misbranded.

It was alleged to be misbranded (1) in that the statements appearing in its label which represented and suggested and created in the mind of the reader the impression that it would be effective for better breeding, would promote normal breeding, aid in the prevention of sterility due to vitamin or nutritional deficiencies, aid reproduction by reason of its content of vital elements and chemicals, prevent infection, prevent the embyro from being reabsorbed, promote normal conception, reduce the immediate deficiency from normal reproduction, and help prevent reabsorption; and that vitamin E was accepted by the American Medical Association and the American Council of Pharmacy and Chemistry as the anti-sterility vitamin were false and misleading since the article was not so effective and had not been accepted by the associations named; and (2) in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices.

On June 30, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5797. Misbranding of Cuban honey. U. S. v. 38 Jars and 284 Packages of Honey. Decrees of condemnation. Portion of product ordered destroyed and remainder ordered sold upon adoption of safeguards to insure its use in compliance with the law. (F. D. C. Nos. 8170, 8371. Sample Nos. 1116–F, 1117–F, 5901–F.)

On August 21 and September 28, 1942, the United States attorneys for the Eastern District of Missouri and the Northern District of Illinois filed libels against 25 $1-size, 7 $2-size, and 6 $3.75-size jars of honey at St. Louis, Mo., and 141 9-ounce, 81 22½-ounce, 56 48-ounce, 3 96-ounce, and 3 1-gallon packages of honey at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about June 16, July 18, and August 29, 1942, from Lansing, Mich., by Cuban Honey, Inc.; and charging that it was misbranded. The article was labeled in part: "El Aguinaldo Cuban Honey."

Analysis of a sample of the article showed that it consisted of honey, and that the mineral matter therein amounted to approximately one-sixth of 1 percent.

The lot at Chicago was alleged to be misbranded in that the statements appearing in its labeling which represented and suggested that it would constitute a remedy for sick and wounded soldiers, and that it provided a significant portion of minerals, and constituted an adequate treatment for digestive disorders, bronchial asthma, bronchitis, asthma, bronchial pneumonia, coughs, sinus conditions, hay fever, and stomach ulcers were false and misleading since it would not constitute a remedy for sick and wounded soldiers nor an adequate treatment for the conditions above-described, and it did not provide a significant portion of minerals.

The lot at St. Louis was alleged to be misbranded in that the statements appearing in its labeling which represented and suggested that it constituted a remedy for sick and wounded soldiers; that it was valued for its medicinal properties; that it played an important part in the preservation of zestful health for those who were well and in restoring health to those who were ill; that it

differed in a material respect from domestic honey; that, when used in the place of other sweets, it would cause children to thrive; that it constituted a source of vital energy and was a great help in the heavy daily battle of life; that it would aid nature in building and maintaining health; that, when taken as directed, it possessed laxative qualities; that it was a relaxing food; that it would aid in more normal action of the digestive system; that it would be retained by those whose digestion was impaired and who have difficulty in retaining food; that it would soothe tired nerves and aid in preventing sleepless nights; that it defied chemical analysis; that it provided the necessary mineral salts; that it contained a significant proportion of minerals; that it was more easily retained in the stomachs of children than were other foods suitable for them; that it was a substitute for cod liver oil and orange juice; that, when used as directed, it would cause an increase in weight in children not caused by other common foods; that it would cause a decrease in restlessness and distress after feeding; and that it was efficacious in cases of rickets and malnutrition were false and misleading since it did not differ in a material respect from domestic honey, it had not defied chemical analysis, it did not contain a significant proportion of minerals, it was not a substitute for cod liver oil and orange juice, and it would not be efficacious for the purposes recommended, or accomplish the results claimed. Both lots were alleged to be misbranded further in that the following statements appearing in the labeling of the lot at St. Louis, "Analysis ____% ____ Water 18.53, Invert Sugars 71.01, Sucrose .83, Ash .25, Dextrine 2.39, Undetermined 6.99, Alkaloids None," and "Analysis of Ash ____% ____ Silicon 4.78, Iron .88, Calcium 3.67, Magnesium 1.18, Sodium 14.12, Potassium 48.47, Phosphorous .78, Sulphur .97, Chlorine 9.87, Undetermined 15.27," and substantially the same statements in the labeling of the lot at Chicago, were misleading, since such statements failed to reveal that the article consisted essentially of a variety of sugars, and that the other constituents named, including the various mineral elements mentioned, were present in the article in so small a proportion as to be negligible.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in the notices of judgment on drugs and devices.

On December 7, 1942, and January 6, 1943, no claimant appeared, judgments of condemnation were entered and it was ordered that the lot at Chicago be destroyed and that the lot at St. Louis be sold to the person or corporation offering the highest bid and adopting such safeguards as might be recommended by the Federal Security Agency against its use in violation of the law.

5798. Misbranding of Improved Heptuna. U. S. v. 46 Cases of Gelatine Capsules. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9045. Sample No. 1951–F.)

On or about December 31, 1942, the United States attorney for the Northern District of Illinois filed a libel against 46 cases, each containing 144 gelatin capusles, at Chicago, Ill., alleging that the article had been shipped within the period from on or about November 11 to December 8, 1942, from Detroit, Mich., by the Gelatin Products Co.; and charging that it was misbranded. The article was labeled in part: "Improved Heptuna Fifty [or "One Hundred"] Soluble Gelatine Capsules Vitamins A B D G with Liver and Iron."

The article was alleged to be misbranded in that the following statements on its label, "Vitamins * * * G," and "liver concentrate fortified with * * * riboflavin * * * Vitamin G . . . 100 Gammas," were misleading since such statements represented and suggested that the article, when taken as directed, would provide a consequential amount of vitamin G (riboflavin), whereas it would not provide a consequential amount of vitamin G. It was alleged to be misbranded further in that it purported to be a food for special dietary uses, and its label failed to bear such information concerning its vitamin and mineral properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to state the proportion of the minimum daily requirement of vitamins A, B_1, D and G contained in a specified quantity of the article, and the proportion of the minimum daily requirement for iron supplied by the article when consumed in a specified quantity during a period of 1 day, as required by the regulations.

On January 7, 1943, J. B. Roerig & Co., Chicago, Ill., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

5799. Misbranding of chocolate-flavored sirup. U. S. v. 90 Cases of Chocolate Flavor Syrup. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 10964. Sample No. 23475–F.)

On October 18, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 90 cases, each containing 12 jars, of chocolate-flavored sirup at Morristown, Pa., alleging that the article had been shipped on or about October 4, 1943, by the Energy Food Company, from Brooklyn, N. Y.; and charging that it was misbranded. It was labeled in part: "Enriched Vita-Lac Chocolate Flavor Syrup."

The article was alleged to be misbranded (1) in that the declaration, "1 Lb. 6 Oz. Net," on the label was false and misleading since the article was short-weight; (2) in that it was in package form and its label failed to bear an accurate statement of the quantity of contents in terms of weight; (3) in that certain statements appearing on the label and in the circular enclosed in the retail package were false and misleading since they represented and suggested that use of the article would result in resistance to disease, good teeth, proper bone formation, rich blood, physical and mental well-being, and normal health, and that it supplied nutritional factors ordinarily lacking in, or unobtainable from, ordinary foods, whereas the use of the article would not result in the effects suggested or implied, nor did it contain nutritional elements unavailable or difficult to obtain by consumption of ordinary foods; (4) in that it was represented as a food for special dietary use because of its vitamin A, vitamin D, calcium, and iron content and its label failed to bear such information concerning its vitamin and mineral properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear, as the regulations require, a statement of the proportion of the minimum daily requirements of these food factors furnished by a specified quantity of the product when consumed as directed during a period of 1 day; and (5) in that it was offered for sale under the name of another food, since "Chocolate Flavor Syrup," which the article was represented to be, does not contain ingredients other than sugar sirup flavored with chocolate or cocoa.

On November 12, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

5800. Misbranding of Soy-O Soy Bean Cereal. U. S. v. 7⅝ Cases of Soy-O Soy Bean Cereal. Product ordered destroyed. (F. D. C. No. 11063. Sample No. 8248–F.)

On November 8, 1943, the United States attorney for the District of Minnesota filed a libel against 7⅝ cases, each containing 48 1-pound packages, of the above-named product at Minneapolis, Minn., alleging that the article had been shipped in interstate commerce on or about October 22, 1943, by the Fearn Soya Foods Company from Chicago, Ill.; and charging that it was misbranded. The article was labeled in part: "Dr. Fearn's Soy-O Soy Bean Cereal."

It was alleged to be misbranded in that certain statements appearing in its labeling were false and misleading because they represented and suggested that the article was exclusively a soybean product which would furnish all of the nutritive factors present in soybeans; and that it would provide all of the food values of a mixed diet containing milk, meat, eggs and whole wheat; and that it was effective to promote growth, to insure strong and healthy bodies, to improve digestion, to correct and prevent nervousness, illness, and irritability, and to supply the complete nutritional requirements of man, whereas the article was not exclusively a soybean product and would not furnish all of the nutritive factors present in soybeans, but contained a substantially greater proportion of wheat than soybeans; its use would not provide all of the food values of a mixed diet containing milk, meat, eggs and whole wheat; and it was not effective to accomplish the results stated and implied.

On January 29, 1944, no claimant having appeared, the product was ordered destroyed.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 5601 TO 5800

PRODUCTS

N.J. No.

Alimentary pastes 5607–5609, 5766
Allen's Nijara Capsules 5795
Almonds, shelled 5748
Anchovies 5702, 5703
Apples 5714–5719
Baby foods 5764
Bean(s), green, canned 5722
kidney, canned 5723
soup mix 5767
soya, powdered milk of 5769
Bemax 5791
Betene 5792
Beverages and beverage materials 5601–5606
carbonated 5602–5604
Biscuit mix 5632
Blueberries, canned 5708
Bovex 5796
Butter 5650–5670
Cake flour 5629
topping 5647
Calf meal 5687
Candy 5641–5645, 5769
with prize 5644
Cereals and cereal products ..... [1] 5607–5640, 5766, 5769, 5800
Cheese 5671–5674
grated 5673
Cherries, canned 5710, 5711
dried 5709
frozen 5720
Chicken noodle soup mix 5766
Chili sauce 5763
Chocolate, sugars, and related products 5641–5649, 5751, 5769, 5797, 5799
Chocolate-flavored sirup 5799
stretcher 5649
Cocoa, imitation 5648
and chocolate stretcher 5649
Cocoanut, frozen 5753
milk 5769
Coffee 5606
cake mix 5632
Corn, canned 5724
flour 5627, 5628
and wheat flour, mixed 5623–5626
meal 5610, 5611
Cranberry sauce, jellied 5721
Cream meal. *See* Corn meal.
Croakers, frozen 5694
DPS Formula 50 5776
Dairy products 5650–5676
Doughnut flour 5630, 5631
mixture 5632
Economalt 5633
Eel pout fillets, frozen 5690, 5691
Egg(s) ..... [1] 5677–5686
dried ..... [1] 5677, 5678
frozen 5679–5685
yolk, sugared 5685
shell 5686
Feeds and grains 5687–5689, 5796
Fish and shellfish 5690–5707
Flour 5612–5632
Formula 8–12 Vitamins-Minerals 5793
Fruits and vegetables 5708–5743
fruit, canned and dried 5708–5713
fresh and frozen 5714–5720
miscellaneous 5721
tomatoes and tomato products 5738–5743
vegetable(s) 5722–5737
soup mixes 5767, 5768
Ginger 5754
root 5755
Glycerin alternate 5762
Grains. *See* Feeds and grains.
Grapefruit flavored beverage base 5601

N. J. No.

Gravy mix 5765
Hain Abgede Capsules ..... [2] 5770
Heptuna, Improved 5798
Herring, canned 5704
Hominy 5725
Honey 5797
Icing 5646
Iron compound and yeast tablets 5777
Kalpeutum, Improved 5781
Limburger cheese 5674
Macaroni 5607
MacDonald's, Dr., Vitamized Chick & Growing Mash Maker, Egg Mash Maker, and Metabolators for Dairy Cattle, Swine, Calves, Beef Cattle, and Sheep 5689
Mackerel, canned 5705, 5706
frozen 5697
Meat and meat products 5744–5747, 5766
Milk, evaporated 5675
whole milk powder 5676
Miscellaneous foods (water-damaged, old) 5764
Muffin mix 5632
Mullets, frozen 5693
Mustard, ground 5756
Mutual Compound 5688
Noodle(s) 5609
and chicken soup mix 5766
Nuts and nut products 5641, 5642, 5748–5753, 5769
Ocean-Lax 5780
Ocean pout fillets, frozen 5692
Onions 5726
Orange drink 5605
Pantabee 5744
Paprika 5757
Peanut(s) 5750
butter 5752
candy 5641, 5642
sugar-coated 5751
Pears, canned 5712, 5713
Pea(s), canned 5729–5733
chick 5727
soup mix 5767
yellow, split 5728
Peppers 5734
Perch fillets, frozen 5695
Popcorn ..... 5634, [1] 5635
Potato(es), shoestring 5735
soup mix 5768
Poultry, dressed 5744
frozen 5745, 5746
paté 5747
Pretorius Graytex 5782
Price's, Mrs., Compound ..... [3] 5759, 5761
Specially Prepared Package of Boric Acid ..... [3] 5759, 5760
No Ice ..... [3] 5759
Rice 5636, 5637
Rye chops 5638
flour 5620, 5621
grains, whole 5639
Salmon salad 5707
Sauerkraut 5736, 5737
Seasoning powder 5758
Self-rising flour 5620
Sentinel A & D Vitamin Tablets 5771, 5772
Shellfish 5698–5701
Shrimp, frozen 5698–5701
Sirup, chocolate flavored 5799
Soup 5743
mixes 5766–5768
Soy grits 5640
Soya bean, powdered milk of 5769
flour 5622

[1] 5635, 5677 Seizure contested. Contains opinion of the court.

[2] Prosecution contested.

[3] Permanent injunction issued. Contains findings of fact and conclusions of law.

N. J. No.

Soy-O Soy Bean Cereal 5800
Spaghetti 5608
Spark-O-Life 5794
Spices and seasoning 5754–5758
Stuart Formula Tablets 5778
Thiamin hydrochloride, elixir 5779
Thompson's Daily Vitamin and Mineral Ration 5787
Tomato(es) and tomato products 5738–5743
canned 5738–5740
juice 5741
puree 5742
soup 5743
Tuna fish spread 5707
Turkey paté, smoked 5747
Vegetables. *See* Fruits and vegetables.
Veterinary preparations 5688, 5689, 5796
Vita Malt 5788
Vitamin B Elixir 5775
Vitamin preparations and foods for special dietary uses 5688
5689, [2] 5769–5800
Vitaminerals 5789
Vitasol The 6–V Health Builder 5790
Viteen 5786
Waffle mix 5632
Walnuts, shelled 5749
Watkins 80 Vitamin A–B–D–G Tablets 5773
Wheat and corn flour, mixed 5623–5626
germ 5784, 5785, 5794
Wheatamin Brand Panto-Caps 5783
Whiting, frozen 5696, 5697
Whole wheat flour 5620, 5621
Yeast and iron compound tablets 5777

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

N. J. No.

Aaron, Edward, Co.:
eggs, frozen 5681
poultry, frozen 5745
Achterberg, Jno. F., Co.:
hominy 5725
Acme Macaroni & Cracker Co.:
macaroni 5607
Akerite Chemical Works, Inc.:
Akerite Glycerin Alternate 5762
Albert, R. L., & Son, Inc.:
candy 5643
Aldama Products Co.:
gravy mix 5765
Allen, G. M., & Son:
blueberries, canned 5708
Allen Products Co., Inc.:
Allen's Nijara Capsules 5795
Allied Mills, Inc.:
soy grits 5640
American Dairies, Inc.:
butter 5654
American Fruit Growers, Inc.:
apples 5718
American Stores Co.:
orange drink 5605
Ames Canning Co.:
tomato juice 5741
Andrews, D. C., & Co.:
ginger root 5755
Arn & Zweifel Co.:
Limburger cheese 5674
Atkinson Milling Co.:
flour 5613
rye chops 5638
Atlantic Fish and Oyster Co.:
mullets, frozen 5693
Ballas Egg Products Corp.:
frozen eggs 5682
Basic Food Materials, Inc.:
soya flour 5622
Bear Lake Valley Dairymen's Co-op Assoc:
butter 5670
Beebe, A. M., Co.:
pears, canned 5713
Bemax Laboratories, Inc.:
Bemax 5791
Biloxi Seafood Shippers Assoc.:
shrimp, frozen 5699
Blue Ridge Creamery, Inc.:
butter 5650
Borden Co.:
butter 5651
evaporated milk 5675
Bresky, Henry, & Sons:
flour 5618
Brick Oven Bake Shop:
dried whole milk powder 5676
Brown-Rogers-Dixson Co.:
mixed wheat and corn flour 5623
Buffalo Cold Storage Co.:
frozen eggs 5679
Busalacchi Bros., Inc.:
pout fillets 5692
California Packing Corp.:
tomatoes, canned 5740
Can-O-Vegetables Co.:
hominy 5725
Casperson Products, Inc.:
butter 5655
Cereal Research Laboratories:
Economalt 5633
Chamberlain Bean & Pea Co.:
yellow split peas 5728
Chevy Chase Co.:
pears, canned 5713
Chicago Pickle Co., Inc.:
sauerkraut 5737
Cincinnati Terminal Warehouses, Inc.:
rice 5636
Citrus Products Co.:
orange drink 5605
Coffee Corp. of America:
coffee 5606
Colonial Stores, Inc.:
flour 5620
Columbia Conserve Co.:
tomato soup 5743
Commander Larrabee Milling Co.:
wheat germ 5784
Commonwealth Cold Storage:
eel pout fillets, frozen 5690
Cottage Donuts, Inc.:
doughnut flour 5631
Cranberry Canners, Inc.:
cranberry sauce, jellied 5721
Crawford Packing Co.:
shrimp, frozen 5701
Crites Milling Co.:
corn, canned 5724
Crown Mills:
flour 5614
Cuban Honey, Inc.:
Cuban honey 5797
Cudahy Packing Co.:
butter 5668
Dartell Laboratories:
DPS Formula 50 5776
Dartmouth Fillet Corp.:
eel pout fillets, frozen 5691
Davis Bros. Fisheries Co., Inc.:
mackerel and fillets of salt mackerel, canned 5705
Delca Fish Preservators, Inc.:
tuna fish spread and salmon salad 5707
Delight Sweets, Inc.:
candy 5644
DePree Co.:
Wheatamin Brand Panto-Caps 5783
De Soto Creamery & Produce Co.:
frozen eggs 5684
Dixie Dairy Co.:
butter 5656

[2] (5770). Prosecution contested.

N. J. No.

Doughnut Corp. of America:
flour mixes 5632
Drew Canning Co.:
pears, canned 5712
Driver & Woodrow:
apples 5716
Dryden & Palmer, Inc.:
candy 5645
Duche, T. M., & Sons, Inc.:
whole egg powder 5678
East Michigan Warehouse Co.:
yellow split peas 5728
East Side Orchard:
apples 5718
Energy Food Co.:
chocolate flavored sirup 5799
Eldorado Creamery Co.:
butter 5653
Elkhart Lake Canning Co.:
peas, canned 5729
Faehndrich, Wm., Inc.:
grated cheese 5673
Fargo Creamery & Produce Co.:
frozen eggs 5684
Farmville Creamery, Inc.:
butter 5657
Fearn Soya Foods Co.:
Soy-O Soy Bean Cereal 5800
Feldhues, William:
corn meal 5610
Feyler's, Inc.:
fish fillets, frozen 5695
Fine Foods, Inc.:
cherries, canned 5710
Flag Fish Co. *See* McDonnell Fish Co., Inc.:
Forest City Products, Inc.:
Sentinel A & D Vitamin Tablets 5771, 5772
Fort Smith Creamery Co.:
butter 5658
Fort Worth Poultry and Egg Co.:
frozen eggs 5683
Fox, Peter, Sons Co.:
butter 5658
Freshman Vitamin Co.:
Pretorius Graytex 5782
Frigid Food Products, Inc.:
frozen whole eggs and frozen sugared egg yolks 5685
Frost King Foods:
mackerel and whiting, frozen 5697
Gelatin Products Co.:
gelatin capsules 5798
General Mills, Inc.:
flour 5620
General Seafoods Corp.:
fish fillets, frozen 5695
Ghirardelli, D., & Co.:
ground mustard 5756
Globe Grocery Co.:
noodles 5609
Golden Dream Food Corp.:
chick peas 5727
Greco Roman Cheese Co.:
cheese 5671
Griffin, B. A., Co., Associated Fisheries:
ocean whiting, frozen 5696
Griffin, B. A., Co., Inc.:
mackerel, canned 5706
Haase, A. C. L., Co.:
Limburger cheese 5674
Hain, Harold:
Hain Abgede Capsules [2] 5770
Hain Pure Food Co. *See* Hain, Harold.
Hamilton, H. A.:
butter 5653
Handy, John T., Co., Inc.:
croakers, frozen 5694

N. J. No.

Hardesty and Stineman:
cake topping 5647
Harding Cream Co.:
butter 5668
Hart, E. J., & Co., Ltd.:
Vitamin B Elixir 5775
Haskell, Charles C., & Co., Inc.:
Pantabee 5774
Havmor Food Products:
peanuts, sugar-coated 5751
Haxton, George W., & Son:
apples 5719
Hayden Flour Mills, Inc.:
wheat germ 5785
Herbert, C. E. & Sons, Inc.:
flour 5614, 5619
Higgins, W. A., & Co.:
almonds, shelled 5748
Hills Bros. Co.:
coconut, frozen 5753
Hilltop Farm Feed Co.:
calf meal 5687
Hol-Grain Products:
popcorn [1] 5635
Hudson, W. M.:
shrimp, frozen 5700
Humboldt Flour Co.:
flour 5620
Hunter, Walton & Co.:
butter 5665, 5667
Huson, G. M.:
apples 5715
Independent Creamery Co.:
butter 5655
Independent Fish Co.:
whiting, frozen 5697
Indiana Macaroni Co., Inc.:
spaghetti 5608
Isaly Dairy Co.:
butter 5663
Kankakee Butter Co.:
butter 5652
Kansas Milling Co.:
Economalt 5633
Katz, Ben:
rye grains, whole 5639
Keith Victor Pharmacal Co.:
iron compound and yeast tablets 5777
Kepner Poultry & Egg Co.:
eggs, frozen 5683
poultry, frozen 5746
Kisky, J. B., Co.:
icing 5646
Kothe, Wells & Bauer Co.:
green beans, canned 5722
Krause, Charles A., Milling Co.:
flour 5625–5627
Kruger Dairy Products Co.:
butter 5659
Kuehn, Otto L., Co.:
shrimp, frozen 5700
Lakeview Milling Co.:
cake flour 5629
Langenfeld Ice Cream Co.:
butter 5660
Larsen, H. T.:
cherries, dried 5709
La Salle Food Products Co.:
sauerkraut 5736
Laurel Biscuit Co.:
corn flour 5628
LeBold, L. N., & Co.:
Viteen 5786
Lerch Coop. Cold Storage:
evaporated milk 5675
Lewis, J. A.:
herring, canned 5704
Liberty Bottling Co.:
carbonated beverages 5603
Lord-Mott Co., Inc.:
peas, canned 5733
Lovelace Farmer Co.:
tomatoes, canned 5739
Lowe, Joe, Corp.:
doughnut flour 5630

[1] Seizure contested. Contains opinion of the court.
[2] Prosecution contested.

	N. J. No.
Lowell Fruit Co.: apples	5714
McAfee Candy Co.: candy	5642
McCarty, J. A., Seed Co.: popcorn	5634
McDonnell Fish Co., Inc.: shrimp, frozen	5698
Maggioni, L. P., & Co.: shrimp, frozen	5698
Maikowski, Herman: apples	5717
Manaster, Irving, Co.: shell eggs	5686
Marshall Kirby & Co., Inc.: dried whole eggs	[1] 5677
Masterson Food Products Co.: popcorn	[1] 5635
Matthews, F. B., & Co., Inc.: pears, canned	5712
Mays Packing Co.: tomato puree	5742
Mellos Peanut Co.: popcorn	5634
Merchants Transfer Co.: flour	5616
Metropolitan Warehouse Co.: The Stuart Formula Tablets	5778
Milani, Louis, Foods, Inc.: bean soup mix and pea soup mix	5767
Mineralized Foods, Inc.: Ocean-Lax	5780
Minneapolis Milling Co.: wheat germ	5784
Moffett, S. A., Co.: cherries, frozen	5720
Monroe City Creamery: butter	5669
Moore, F. E.: calf meal	5687
Moore, L. V.: calf meal	5687
Mutual Products Co.: Mutual Compound	5688
Nash-Finch Co.: walnuts, shelled	5749
National Biscuit Co.: flour	5615
National Fruit Flavor Co., Inc.: grapefruit flavored beverage base	5601
Natura Remedy Co.: Vita Malt with Natura Calcium Compound	5788
Nebraska Cooperative Creameries: butter	5661
Norda Essential Oil and Chemical Co.: imitation cocoa	5648
Northwestern Fruit Exchange: apples	5718
Nut Food Co., Inc.: peanuts, shelled	5750
O'Connor, M., & Co.: green beans, canned	5722
Onley, W. T., Canning Co.: tomatoes, canned	5738
Pacific Butter and Egg Co.: frozen eggs	5679
Pauli, R. C., & Sons: peppers	5734
Perry Canning Co.: cherries, canned	5710
Palmer, A. L.: herring, canned	5704
Peterson, A. V.: anchovies, canned	5703
Peterson, A. V., Co.: anchovies, canned	5702
Pilley, Frank, & Sons, Inc.: butter	5662
Pillsbury Flour Mills Co.: flour	5621
Pinesbridge Farm, Inc.: smoked turkey paté	5747
Price Compound Co.: Mrs. Price's Compound	[3] 5759, 5761
Mrs. Price's Specially Prepared Package of Boric Acid	[3] 5759, 5760
Price's No Ice	[3] 5759
Price, M. T.: Mrs. Price's Compound, Mrs. Price's Specially Prepared Package of Boric Acid, and Price's No Ice	[3] 5759
Prince Macaroni Mfg. Co.: noodles	5609
Progressive Fillet Co.: mackerel, frozen	5697
Pro-Tee Laboratories, Inc.: seasoning powder	5758
Radcliffe, J. B.: coconut milk, powdered milk of soya bean, and candy	5769
Radcliffe Soya Products. *See* Radcliffe, J. B.	
Rau, D. F.: apples	5714
Red Band Co.: flour	5620
Red Star Milling Co.: flour	5620
Red Wing Milling Co.: flour	5612
Reece, E. G., Canning Co.: peas, canned	5732
Rees, Victor: cherries, dried	5709
Reliable Candy Co.: candy	5641
Roanoke Public Warehouse: flour	5617
Robertson Peanut Co.: peanut butter	5752
Rocky Ford Onion Growers Cooperative Assoc.: onions	5726
Royal Milling Co.: flour	5620
S. & L. Beverage Co.: carbonated beverages	5602
San Juan Fsh: anchovies, canned	5702
Schmitt Bros.: cheese	5672
Schuette Service Stores: butter	5666
Schulze, P. A., Co.: butter	5666
Scowcroft, John, and Sons Co.: cherries, canned	5711
Sheldon Products Co.: cocoa and chocolate stretcher	5649
Shriver, B. F., Co.: peas, canned	5731
Silver Cup Beverage Co.: carbonated beverages	5604
Sisk, A. W., & Son: herring, canned	5704
Skookum Packers Assoc.: apples	5718
Slade-Gorton: eel pout fillets, frozen	5690
Slade Gorton Co.: pout fillets	5692
Sociedade Fabril de Pimentao Lda.: paprika	5757
Sorensen Creameries: butter	5663
Southern Packing Co., Inc.: peas, canned	5730
Southern Rice Sales Co.: rice	5637

[1] Seizure contested. Contains opinion of the court.

[3] Permanent injunction issued. Contains findings of fact and conclusions of law.

	N. J. No.
Spark-O-Life Co.:	
Spark-O-Life	5794
Spear, M. M., & Son:	
apples	5717
Springbook Packing Co., Cooperative:	
cherries, dried	5709
Springdale Canning Co.:	
green beans, canned	5722
Spudette Co.:	
shoestring potatoes	5735
Spur Creamery:	
butter	5664
Standard Drug Co.:	
elixir thiamine hydrochloride	5779
Star Fillet Co.:	
eel pout fillets, frozen	5690
Steed, J. R.:	
shrimp, frozen	5701
Stephenson-Sykes Mill:	
corn meal	5611
Steward, L. H., Corp.:	
Betene	5792
Strandquist Creamery Co.:	
butter	5665, 5667
Stuart Co.:	
The Stuart Formula Tablets	5778
Thompson, W. T., Co.:	
Thompson's Daily Vitamin and Mineral Ration	5787
Tracy Produce Co., Inc.:	
poultry, dressed	5744
Trade Wind Foods, Inc.:	
coconut, frozen	5753
Treasure Island Food Products:	
soup mixes	5768
Triangle Milling Co.:	
Bovex	5796
Tupman-Thurlow Sales Co., Inc.:	
mackerel and fillets of salt mackerel, canned	5705
Union City Canning Co.:	
tomatoes, canned	5739
Union Fisheries, Inc.:	
shrimp, frozen	5699
Universal Products Co.:	
Formula 8–12 Vitamins-Minerals	5793
Valley Canning Co.:	
chili sauce	5763
Vanderveer & Coleman, Inc.:	
red kidney beans	5723
Vegetable Juice & Products Co.:	
Betene	5792
Vishham, Madhavji, & Co.:	
ginger	5754
Vitality Macaroni Co.:	
macaroni	5607
Vitamin Corp. of America:	
Improved Kalpentum	5781
Vitaminerals Co.:	
Vitaminerals, VM Nos. 1, 1+, 100, and 120	5789
Vitamins Limited:	
Bemax	5791
Vitamized Feed Co.:	
veterinary preparations	5689
Vitasol Corp.:	
Vitasol The 6–V Health Builder	5790
Wagner, H. M., & Co.:	
mixed wheat and corn flour	5624
Walton Feed Mills:	
corn meal	5610
Watkins, J. R., Co.:	
Watkins 80 Vitamins A–B–D–G Tablets	5773
Wayne County Farm Bureau Produce Assoc.:	
butter	5653
Weiss Noodle Co.:	
chicken noodle soup mix	5766
Wells and Harris:	
miscellaneous foods (water-damaged, old)	5764
Wenatchee Wagner Orchards:	
apples	5716
West Coast Fruit Co.:	
cherries, dried	5709
Wichita Ice and Cold Storage Co.:	
eggs, frozen	5680
poultry, frozen	5746
Winslow, J. C.:	
Mutual Compound	5688
Winslow, S. R.:	
Mutual Compound	5688

B3286

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